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Government
Publications



SP-14

SP-14

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 40th Parliament

Assemblée législative de l'Ontario

Première session, 40^e législature



Official Report of Debates (Hansard)

Thursday 6 September 2012

Journal des débats (Hansard)

Jeudi 6 septembre 2012

Standing Committee on Social Policy

Putting Students First Act, 2012

Comité permanent de la politique sociale

Loi de 2012 donnant
la priorité aux élèves

Chair: Ernie Hardeman
Clerk: Katch Koch

Président : Ernie Hardeman
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Room 500, West Wing, Legislative Building
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Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Thursday 6 September 2012

Jeudi 6 septembre 2012

The committee met at 0901 in room 151.

PUTTING STUDENTS FIRST ACT, 2012

LOI DE 2012 DONNANT
LA PRIORITÉ AUX ÉLÈVES

Consideration of the following bill:

Bill 115, An Act to implement restraint measures in the education sector / Projet de loi 115, Loi mettant en oeuvre des mesures de restriction dans le secteur de l'éducation.

The Chair (Mr. Ernie Hardeman): Good morning. Welcome to the September 6 meeting of the Standing Committee on Social Policy. We will continue the public depositions on Bill 115, An Act to implement restraint measures in the education sector.

ASSOCIATION DES CONSEILS SCOLAIRES
DES ÉCOLES PUBLIQUES DE L'ONTARIO

The Chair (Mr. Ernie Hardeman): With that, the first appointment this morning is the francophone school boards' association. Welcome. I see you're at the table. Thank you very much for coming in. As we have done with the previous depositions—we went through this yesterday with quite a number—you will have 15 minutes to make your presentation. You can use any or all of that time for presentation. Upon the completion of the presentation, if you leave time, we will have questions from one of the parties. This one will start with the official opposition asking questions on your presentation. You do not have to leave time for questions. If you have more you'd like to say, you're quite entitled to use your full 15 minutes in your presentation. With that, thank you very much for coming in. The floor is yours.

M. Ronald Marion: Alors, merci, monsieur le Président. Mon nom est Ronald Marion. Je suis le président de l'Association des conseils scolaires des écoles publiques de l'Ontario, et puis avec moi est Louise Pinet, la directrice générale de l'ACÉPO.

En partant, j'aimerais vous dire premièrement que les paramètres financiers de la province, au niveau des conseils scolaires de la province de l'Ontario, ont toujours été sans doute primordiaux, et on est toujours demeuré respectueux avec l'intention, justement, d'assurer que ces paramètres-là soient entérinés dans des ententes conclues avec nos divers employés.

J'aimerais, premièrement, vous orienter un peu. Les conseils scolaires publiques représentés par notre association sont des conseils scolaires de langue française. On a un statut particulier dans la province de l'Ontario. Nous sommes protégés par l'article 23 de la Charte des droits et libertés. En disant ça, ce que ça veut dire, c'est que la gestion scolaire est accordée par la Charte des droits et libertés à la communauté de langue française de cette province, et cette gestion ou gouvernance est officiellement exercée par ses élus dans des élections municipales—les conseillers scolaires et les conseils scolaires. C'est une gestion qui n'est pas remise à la ministre de l'Éducation. Elle est pour être exercée par la communauté de langue française. Alors, c'est un point important à retenir en vertu de nos commentaires aujourd'hui.

J'aimerais aussi vous dire que le syndicat qui a négocié une attente avec la ministre, qui est un de nos employés, est l'association des enseignants et enseignantes de langue française franco-ontariens, l'AEFO. Ce qui est arrivé, comme vous le savez, il y a eu des négociations ardues durant toute une grande période en Ontario entre les conseils scolaires et leurs employés, et justement avec ce syndicat nous étions à la table jusqu'à la dernière minute. Nous n'avons jamais quitté la table, et le syndicat a quitté la table. Ils ont décidé d'interrompre les discussions, les négociations, et se sont rendus au bureau de la ministre pour conclure une entente sans la participation des employeurs.

Quand ils ont quitté la table, nous avons tout de suite envoyé une lettre à la ministre lui disant : « Vous ne devriez pas conclure d'entente avec nos employés sans notre participation, notre présence et nos conseils. » Malheureusement, malgré nos avis, la ministre a conclu une entente avec l'AEFO.

Ce qui nous préoccupe, et comme je vous le disais, à notre avis le gel salarial aurait été accordé par les enseignants et respecté par les enseignants en province ainsi que les conseils scolaires. Il fallait arriver à des ententes à travers la province, mais je crois que le but qui était ciblé aurait été atteint.

Le projet de loi qui est devant vous maintenant, à notre avis, atteint nos objectifs principaux : premièrement, la réussite des élèves, et deuxièmement, la sécurité des élèves, des choses qui sont importantes, sans doute non seulement au ministère de l'Éducation, mais aux conseils scolaires et aux parents de nos élèves.

La première chose à vous souligner, par exemple, c'est que l'accord avec l'AEFO accorde à l'enseignant le droit de décider quels tests diagnostiques vont être imposés dans leur salle de classe. La réussite des élèves est la responsabilité d'un conseil scolaire et est au cœur de leur mission. On a de très bons résultats en province. Comment est-ce qu'un conseil scolaire assure la réussite des élèves sans pouvoir—si on peut cibler dans une école ou dans une classe des problèmes en mathématiques, comment est-ce qu'un système peut s'améliorer et remédier aux problèmes si le système ne peut pas dire à l'enseignant : « Vous devez imposer les tests diagnostiques suivants pour qu'on puisse pallier aux besoins des élèves » ? Alors, nous sommes dans l'impossibilité d'imposer des tests diagnostiques qui sont nécessaires et cruciaux pour être capable de réaliser notre mission principale, qui est la mission aussi de la province et du ministère de l'Éducation.

Si vous pensez que c'est difficile aussi, la Loi sur l'éducation dit aussi que l'enseignant doit être en salle de classe 15 minutes avant le début de la période d'enseignement. L'entente avec l'AEFO dit cinq minutes. La Loi sur l'éducation dit 15, et l'entente avec l'AEFO dit cinq minutes. Nos écoles sont régionales parce que notre population est dispersée partout en Ontario et doit arriver par autobus. Les enfants doivent débarquer, aller dans une salle de classe, se préparer et être en salle de classe pour être capable de débiter la période d'apprentissage. Comment est-ce qu'un élève, dans ce cas-ci, pour être en sécurité, pour être capable d'apprendre, peut se rendre dans la salle de classe sans enseignant pour une période seulement et l'enseignant va arriver seulement cinq minutes avant le début de la période d'enseignement ? Ce que ça nous donne, premièrement, ça atteint à notre but principal aussi, le but d'assurer la sécurité des élèves, et deuxièmement, à la réussite des élèves, parce que sans doute que la période d'apprentissage va accuser un délai parce que l'enseignant arrive et les enfants ne sont peut-être pas entièrement disposés à débiter la période d'apprentissage.

Ce que ça soulève pour nous, premièrement, ce sont deux choses qui sont protégées par la loi parce que, malgré le fait que la loi a certaines choses, elle dit que l'entente négociée avec l'AEFO doit être respectée. Ça crée déjà une inégalité devant la loi. Un principe fondamental en Ontario, un principe fondamental qui est respecté aussi dans la Charte des droits et libertés, est l'égalité devant la loi. Comment est-ce qu'un parent qui a un enfant dans une école de langue française—son élève, le parent, on n'est pas égal devant la loi. La loi dit que l'enseignant anglophone public doit être dans la salle de classe 15 minutes avant; nous, c'est cinq minutes. Eux, ils ont le droit de décider des tests diagnostiques dans leur salle de classe. Nous, on ne peut pas le faire.

Alors, tout de suite, ce sont deux éléments de gouvernance, de gestion scolaire, qui ont été cédés par la ministre au syndicat et qui, premièrement, vont

enfreindre l'article 23 de la Charte des droits et libertés et le droit d'égalité devant la loi, à notre avis.

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Les élèves et les parents de cette province et les conseillers scolaires sont très déçus. Premièrement, je peux vous dire que si vous ne modifiez pas la loi—et ce qui est intéressant aussi dans la loi, ça dit au début dans l'interprétation qu'on ne doit pas interpréter ces lois-là pour atteindre aux droits linguistiques. Qu'est-ce que ça veut dire, ça ? Est-ce que ça veut dire que les éléments de cette loi qui sont en contravention de l'article 23 de la Charte des droits et libertés, qui atteignent aux droits de gestion de la communauté de langue française, ne peuvent être contestés devant les tribunaux ? Est-ce que ça dit que cette partie-là ne doit pas être respectée ? C'est intéressant comme commentaire, parce que selon nous, c'est vraiment que le gouvernement a créé un problème, peut-être au niveau juridique, mais sans doute au niveau opérationnel d'un conseil scolaire de langue française. Et si vous ne modifiez pas la loi pour—au moins, si vous adoptez la loi, et si vous l'adoptez pour assurer un gel salarial, c'est une chose. Mais quand vous atteignez aux droits de gestion de la communauté de langue française, c'est une autre.

En conséquence, je vous dis que si vous adoptez cette loi et que votre décision est de l'appuyer, vous allez atteindre aux droits constitutionnels de la communauté de langue française, des conseils scolaires publics de langue française, et même des conseils scolaires catholiques de langue française, et vous allez nuire à la réussite de nos élèves. Vous allez aussi nuire à la sécurité de nos élèves dans la salle de classe, et en plus, vous allez entériner des pratiques de relations de travail entre un syndicat ou un employeur et un employé dans le domaine scolaire pour plusieurs années.

Je vous pose la question : si jamais on a des négociations d'entente collective à l'avenir avec nos employés et on va prendre des positions assez difficiles—parce que c'est ça une négociation—et que ça n'aboutit peut-être pas à toute conclusion facile, qu'est-ce qui empêche un syndicat comme l'AEFO de dire : « On a fini. On ne parle pas avec vous maintenant. Parce qu'en réalité, on va aller parler à la ministre. Elle va nous donner ce qu'on veut ? » Et je crois que si vous appuyez cette loi sans la modifier pour enlever la réserve qui dit que les ententes négociées avec OECTA et avec l'AEFO doivent être respectées, c'est ça que vous faites. Vous nous placez dans une position essentiellement très difficile, et vraiment c'est une pratique, à notre avis, malsaine en vue des relations de travail entre un employeur et un employé.

Alors, ce sont nos commentaires. On vous a remis un mémoire qui ajoute un peu à ce que j'ai dit aujourd'hui, mais nous vous encourageons de regarder les aspects qu'on a soulignés et d'assurer que cette loi soit modifiée pour nous permettre de réaliser les objectifs auxquels on est dédiés depuis très longtemps. Et on n'a pas quitté la table. N'oubliez pas. On est le seul employeur qui peut dire ça—on n'a pas quitté la table. On a été là jusqu'à la

dernière minute. On nous a abandonnés. Alors, ce sont mes commentaires.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. We have about a minute and a half. Ms. MacLeod?

Ms. Lisa MacLeod: Thanks very much, Chair.

Great of you to come in. Merci beaucoup. Je ne parle pas français, so you're stuck with me in English. But it's good of you to come in. You're aware we're going to be making some amendments to modify some of your issues.

I was very concerned with your suggestion on section 23 of the charter, and I'd like to talk to you more about that, as it pertains to the particular bill and francophone students receiving a francophone education. By the way, I have one of the fastest-growing communities in all of Ontario in representing the community of Barrhaven, and I will say this: The francophone school boards—both of them—have been adapting to the high growth and the pressures there, have been doing a very good job and also coming in under budget. So that would be a huge take-away for the Ottawa-Carleton District School Board if they could learn how to manage their money like you do.

But I am very concerned about this because with the growing pressures in our community, there is a growing need for francophone services in education, and I'm very interested to learn a little bit more about this. Could you explain to the committee a little bit more about that specific section?

Mr. Ronald Marion: And the specific section you're referring to is the—

Ms. Lisa MacLeod: In the act, not in the charter.

Mr. Ronald Marion: Okay, in the act. Well, there are two—the section, I believe, is 4, subsection (2) of the act, which particularly refers to the fact that the agreements that have been negotiated with OECTA and AEFO basically will govern the relationship between the employer and the employee over the term of the two years and probably, I assume, the extension, if it's granted, of a year beyond that.

The other reference I made is to the fact that the act—and frankly, that's an extraordinary thing; I don't think I've seen it in too much legislation, if any legislation, and I'm a lawyer. But to say that it can't be interpreted to basically affect our linguistic rights: I'm really curious why that was put in there, unless someone suspected that yes, they were in fact infringing some constitutional rights in the legislation.

The Chair (Mr. Ernie Hardeman): Okay. If we could just stop there—

Mr. Ronald Marion: Stop?

Ms. Lisa MacLeod: You know what—

The Chair (Mr. Ernie Hardeman): The questioner spent too much time on the question to allow you to—

Ms. Lisa MacLeod: That's all right. I wanted to make the point, and the other thing is, my assistant is here. I know he's upstairs watching. I'm going to have him come down to have a quick conversation with you on that. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation.

Mr. Ronald Marion: Thank you. Je vous remercie.

ELEMENTARY TEACHERS' FEDERATION OF ONTARIO

The Chair (Mr. Ernie Hardeman): Our next presentation is the Elementary Teachers' Federation of Ontario: Sam Hammond, president.

Thank you very much for coming in this morning to make a presentation to the committee. As with the previous delegations, you have 15 minutes to make your presentation. You can use any or all of that. If you change speakers during the presentation, if you would make sure that we introduce the speakers through the microphone so it can be recorded in Hansard. If you have any time left at the end of the presentation of your 15 minutes, the questioning will be with the third party.

With that, the next 15 minutes are yours.

Mr. Sam Hammond: Thanks very much, Chair. It's a pleasure to be here. I certainly wish we had much more time in terms of these hearings, in terms of input that people could put in from across the province.

I'm Sam Hammond, president of the Elementary Teachers' Federation of Ontario. With me today are Gene Lewis on my left, our general secretary, and on my right, Vivian McCaffrey, executive staff at ETFO.

I want you to know, quite frankly, that I am here today as a very proud union boss, but I am here—

Ms. Cheri DiNovo: You look better in the pictures.

Mr. Sam Hammond: Thank you.

I am here representing my members, and I want to be clear about the concept of a union boss and what I do. I do not dictate to my members. My 76,000 members across this province determine the direction of this union and the positions that we take through a very democratic process.

I'm here today, in addition and most importantly, to appeal to the members of this committee—to all members of the Legislature—to vote against Bill 115. This is not a bill that can be fixed through amendments, and I am not here to put forward amendments to that bill. I'm here to ask you to vote against it.

This bill's underlying principles attack the fundamental rights of free collective bargaining—rights that are protected through the freedom of association provisions of the Canadian Charter of Rights and Freedoms. This view is strongly supported by the Canadian Civil Liberties Association, whose spokesperson described Bill 115 as “an unprecedented attack on the civil liberties and constitutional rights and freedoms of educational workers.” Collective bargaining rights are central to ensuring that workers are treated with dignity, respect and fairness in the workplace.

0920

Through previous bargaining, ETFO has negotiated terms and conditions ranging from compensation to maximum class size, fair transfer, staffing and hiring

policies, and provisions for improved health and safety protections. Our members' working conditions are what determine, quite frankly, our students' learning conditions.

Bill 115 pre-empts the collective bargaining process for teachers and educational support workers employed by public school boards across this province. The bill takes the unprecedented step of imposing contract provisions agreed to between the government and OECTA on our members, my 76,000 members, and other unions who refused to agree to the government's predetermined, rigid terms. The bill was introduced with the threat of imposing contract provisions before our current agreements had expired and before the teacher-school board bargaining process had the opportunity to take its natural, fair and respectful course.

Contrary to the government's fearmongering, there was never any suggestion or even the possibility, given the legal parameters of teacher bargaining, that ETFO members would not be in their classrooms on the first day of school or that strike action would take place in any of the days or weeks following.

I want to be clear: I've repeated that repeatedly in public and in all of my media coverage, in addition to saying it again here today.

ETFO has scheduled strike votes in our locals, but as the government is fully aware, these votes are a normal part of the bargaining process. Strikes are a last resort when dealing with tough negotiations and are an extremely rare occurrence in the education sector. I want to be clear: The fact that we take a strike vote does not mean that teachers would be on the street tomorrow. That is so far from the truth.

Let me address a couple of other myths spun by the government.

It is a myth that ETFO did not want to negotiate with the government a provincial framework agreement for local bargaining. The Minister of Education has made great use of the phrase, "ETFO walked away from the discussion table after an hour." We had valid reasons for our abrupt departure.

Collective bargaining is based on established, mutually agreed-upon ground rules that respect both partners to the discussion. It is understood that both parties have the opportunity to table issues for discussion that represent their respective priorities. There was no—none, not any—preliminary discussion of ground rules, nor were there going to be.

I've spent many years as a negotiator within ETFO in my local and across the province, and I can tell you from personal experience that the government's process for the education sector discussions broke all—every one—of the time-honoured conventions of collective bargaining. I also had in that room with me over 20 staff who negotiate and have decades and hundreds of thousands of hours of negotiations who will confirm that and did confirm that when we left that table.

It is also a myth that the government is simply asking teachers to take a two-year pause in their salaries. Our

members are deeply offended by this characterization of the government's demands. Our members fully understand that the government's demands go far beyond a two-year salary freeze. Most teachers will, in fact, experience a salary cut over the next two years, and younger teachers will lose half of their entitled increase based on their experience and additional qualifications, which they earn through personal expense on completing university degrees, courses and ongoing professional development AQ courses.

There was no warning—none—for the extent of the government's proposed strips to our salary grids, sick days and retirement benefits. Our members fail to understand how their sick leave is an easy government target, given MPPs' salaries, retirement savings plan and generous severance, or gratuity plans, if you will.

The government has pitched its attack on education sector collective agreements as the only alternative to cancelling full-day kindergarten, as one example. This is a false dichotomy. The government began its implementation of full-day kindergarten—a program we fully supported, and I spent hours personally supporting it—two years after the 2008 recession. The government was well aware at the time of the costs of the program at that point and of the growing economic challenges. At no time, either before or during the 2011 election, did the Liberals state that Ontario could only afford the program if it took \$1.2 billion or more out of education sector compensation.

Ontario, like most of the world, is facing economic challenges. Public sector workers are willing to do their part, but not to pay the full cost of balancing the deficit. We believe Bill 115 is symptomatic of an extreme right-wing agenda whose goal is to use the current economic situation as a pretext to go after the hard-fought gains of unionized employees in this province. We fear that Ontario is quickly becoming like the Republican-dominated states south of the border, where union rights and wages are under attack, and the middle class is withering away along with its ability to be the engine of economic recovery.

Our fight against Bill 115 is about more than just the plight of education workers. Education sector workers understand that if we don't stand up to this draconian anti-labour legislation, the government will simply become emboldened and move on to the next union target.

We urge MPPs in Ontario to step back from this path and to return to a more balanced approach to dealing with the deficit and the public sector workforce, an approach that treats unions as partners, not as an easy scapegoat for an economic crisis they didn't create.

I ask you again, and your colleagues, to vote against Bill 115. I thank you for the time.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. We have about a minute and a half or two minutes left. The third party: Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Mr. Hammond—very clear. During the summer, the Premier and the Minister of Education talked about the urgent need to bring in this

legislation so schools would open on the first day of the scholastic year. I talked to people at the Ontario Public School Boards' Association. They were not aware of any of their schools that were not going to open on day one. Were you aware of any school or any of your members that were not going to be in the classroom on day one?

Mr. Sam Hammond: Absolutely not. In fact, on August 27, when the legislation was introduced, we already had our members in Rainy River and Keewatin-Patricia in classrooms. That was an absolute myth, as I've said.

We promised we would be there, both us and other union affiliates, and we were in the classrooms. Not one school board was in threat of closing, or said that they were not going to start on day one—and they did, and we did.

Mr. Peter Tabuns: Yesterday Annie Kidder, from People for Education, referred to this as a manufactured crisis. You've pointed out that your members were actually in school, were going to be in school, that no one was in a position to have the schools not open. Would you agree with Annie Kidder that we're dealing with a manufactured crisis here?

Mr. Sam Hammond: I absolutely would, from day one, from mid-February, when the government put their rigid, predetermined parameters on the table—from that point forward until today, absolutely. This is a manufactured crisis—I would agree with Annie—and I'm still trying to figure out what the goal is in all of this.

Mr. Peter Tabuns: Well, we would argue the Kitchener-Waterloo by-election, ourselves.

Mr. Sam Hammond: Good argument.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. It's much appreciated, and your attendance is much appreciated.

Mr. Sam Hammond: Thank you.

0930

ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION

The Chair (Mr. Ernie Hardeman): Our next presentation is the Ontario English Catholic Teachers' Association: Kevin O'Dwyer, president. Thank you very much for your attendance here this morning. As with the previous delegations, you will have 15 minutes in which to make your presentation. You can use any or all of that in your presentation. If there's any time left at the end of the presentation, we will have questions from the government caucus this time.

With that, the next 15 minutes are yours.

Mr. Kevin O'Dwyer: Thank you very much. My name is Kevin O'Dwyer. I'm the president of the Ontario English Catholic Teachers' Association, and with me is a member of our secretariat staff from the government relations department, Cheryl Fullerton. Thank you very much for this opportunity to speak on behalf of our members, the 44,000 teachers in the publicly funded Catholic school system.

I want to go very quickly to a point: We signed on to a memorandum of understanding with the government. That was the result of the employer, at 11:38 on July 4, identifying that they were going to withdraw from the process because they felt that the fair hiring policy was still on the table and they did not think they could move forward through that process. Those employers at the 29 school boards left this process.

The irony of this situation is that we've signed a memorandum of understanding with the government and we're trying to effect that change; I think there's an obligation to do that. But I've heard individuals talk about strikes, lockouts and, of course, conciliation and the opportunity to unilaterally change the terms and conditions of a collective agreement.

Well, I'm absolutely befuddled by virtue of the fact that the only affiliate in this province to draw a strike vote has been the Ontario English Catholic Teachers' Association. We have a signed memorandum of understanding. We have a 91.8% strike vote out of Dufferin-Peel Elementary, approximately 3,500 members. We have another strike vote at a very small location, in a very remote area in Moosonee. Regulation 46 was supposed to help and assist Moosonee and that northeast school board, yet we've had to pull a strike vote. So I want to make it very clear to the Legislature, through you, that we've had to go and pull strike votes in order to protect our collective agreements, because some of our employers—13—went to conciliation. They went there before we had a chance to even sit down and bargain. Conciliation is about impasse. Conciliation is a process that both parties have an obligation to.

I need you to appreciate and understand the aggressive nature of some of those employers out there that we have to face, and that we have pulled strike votes. I want the news to realize that, and I want the Legislature to realize and recognize that that's what we've had to do in order to deal with some of our employers.

Windsor: It's now in takeover. According to the report that came out from Deloitte under the budget reduction initiatives, page 15 of that report: "In order to determine the likelihood of achieving the planned \$10.7 million in budgetary reductions identified by" the school board, "Deloitte individually assessed each of the targeted areas for critical dependencies placing the items at risk. Through this analysis, it was evident that a portion of the total budget reduction ... was dependent on successfully renegotiating current contract obligations with unions." That employer wanted to come into our collective agreements through conciliation and unilaterally change. It's provocative. There's only one thing a union can do: Pull a strike vote and exercise that strike vote, if need be. That was the position we were put in, in spite of—irony of ironies—signing a memorandum of understanding with the government of Ontario.

I think we sort of appreciate to what extent we needed to go ahead and suspend, like we did in 2008, a portion of that Ontario Labour Relations Act, where we say, "We're going to put that onto the side." In 2008, we did

that, and we re-enacted it on November 30, giving time for all the parties. We're doing the exact same thing here. We're saying, "Let's set those things off to the side," to ensure that these types of aggressive employers—not all of them—who file for conciliation don't have an opportunity to go in and unilaterally strip after we've gone ahead and tried to mitigate and recognize what those fiscal responsibilities are across the province.

This is a creative union. This is a union that goes ahead and challenges. This is a union that puts their name first and foremost, and we stand by that particular. We expect the reciprocating event to happen there. With that memorandum of understanding, we do have just that: an understanding.

To give you an idea of what we have to face in terms of some of our employers: post-retirement benefits, dental benefits—after age 65, totally unfunded. They're using board monies to go ahead and pay for that, to the tune of somewhere in the neighbourhood of \$420 million. Wage increases for directors go to the sunshine list—not our information; stuff that's public. In one corner, 15.89%. People have been fattening the calf. I can use that, being a Catholic schoolteacher. I understand what that means. That's exactly what's been going on in some of those areas.

Let me go down to Kenora school board, which has eight administrators in place to oversee a school board composed of 1,500 full-time students. Northwest: nine senior administrators; total population of the students, 1,257—granted, the size and the geography is in play. Northeastern board: nine senior administrators for a total of 2,329 students. Go to Algonquin and Lakeshore: They've exceeded their administration line by \$342,000. Someone needs to keep an eye on the accountability about how these dollars are being spent. More important, why are we running into an unfunded liability issue that the government has itself focused on? It's because of some of the ways those employers that we deal with are managing and dealing with those funds.

We came in here in February. We challenged this government. We were challenged to go ahead and get creative ideas. We moved individuals off positions. We started talking about concepts and solutions. We've put things forward. It was ratified by our association, our provincial executive and endorsed by the council of presidents. Forty-two of those individuals supported endorsement; 24 were in opposition to endorsement.

That has come forward. You can understand I need to press upon you the necessity for us to protect ourselves if we're going to go ahead and make some type of fiscal commitment here and some type of mitigating circumstances against what the original parameters were, then have an employer try to go into the Ontario Labour Relations Act and literally gut aspects of our collective agreement to continue funding what they see as their appropriate roles and lives, which are the perks and overstaffing and those bloated aspects in some of those school boards. Not all the employers are like that. But when 13 come out of 29, that's a pretty strong indication

that there's a coordinated effort in there. I think you can understand and appreciate why we value a commitment at this level that is also one that goes ahead and curtails what some of these aggressive, over-the-top employers are attempting to do.

I know you had some focus in terms of the past couple of days from other members speaking about the fair hiring policy, as well as speaking about diagnostic testing. I think they did speak very clearly about that. There's no change in who gets to hire. There is no union hiring. It's not a closed hall. It never has been. That employer decides who gets hired. We say: Let's rely on the qualifications and experience that those people have acquired during that employment with that employer, who should be training those individuals, and let that be the determination to get the best possible candidate in front of students and the best possible candidate on a permanent hiring basis.

Diagnostic testing? I can tell you myself, as a teacher in the school, what value that has for me to understand what I need to do for a student. It's time-sensitive. It's not EQAO. It's something I need on the ground, instantaneously. When I can use that tool and go ahead and exercise it appropriately, I can be more effective as a teacher in that classroom. If we want to move from good to excellent, we're going to need that step. There are other steps where we're going to need to do that as well.

I think at that time, Mr. Chair, I'm quite willing to respond to any questions that there may be.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. We do have some time for questions from the government side. Mr. Delaney.

Mr. Bob Delaney: Well, Kevin, thank you very much for coming in. Good to see you again. You're looking well.

You've made some points, I think, very powerfully. And I guess, coming from where you did, you're looking at three Peel region members here. I just want to very quickly focus on something that you just mentioned, which is the process in hiring. We have all had young teachers come in to see us and speak candidly from personal experiences, and very often emotionally, on their difficulties in penetrating a system that seems to be biased toward a chosen few. The memorandum of understanding is very clear that boards, such as the one you used to work with, have to lay out a very clear and unambiguous process. I just want to ask you to elaborate a little bit on not just this but some of the other non-monetary aspects of the agreement.

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Mr. Kevin O'Dwyer: I think the two key ones are there, and I think they're critical in terms of us being able to move forward. I think the government recognizes that.

To go to your point in particular, rather than get into the quagmire of blaming and pointing fingers and bringing names up and dragging people through, we took the position that the more transparent that is, and the more that individuals can understand how to process through that—let's say someone was of a similar name

and was hired and someone in the staff room made the allegation: This clears it up. This puts it pretty definitively that I can stand on my merit, independent of my name or any other allegation someone may want to make about me.

I think that's about clarity. I think that's about empowering that individual. And remember, in that process, the employer still gets to pick from a short list of five individuals, if they want to do long-term occasional work. There is still flexibility in that, and there is still opportunity for them to go ahead and meet their needs. The way that was contorted was absolutely about strictly misinformation, and remember, it's the reason the employer claimed they left this bargaining process and wanted to go to the Ontario Labour Relations Act, through conciliation, and balance their budgets.

Mr. Bob Delaney: Okay, I think on that one, we are probably reading off of the same page. Certainly, from our vantage point, what we get to see here in our constituency offices are your members making a clear, consistent, logical and perfectly supportable point.

What do you think is critical for the government to consider between now and the end of December, particularly in Bill 115, to ensure that all the parties stay on track and keep working in the best interests of Ontario students?

Mr. Kevin O'Dwyer: I'm going to speak to the fact that we came to a memorandum of understanding with the government. In that, we believe the government will effect change. They'll go ahead and meet the Ontario English Catholic Teachers' Association, and that was our primary goal. We wanted to make sure there was that consistency. At the same time, we wanted to protect ourselves against the employers coming back in at us, which we clearly see is what some of them are doing.

We think, on a go-forward basis, there will be an opportunity at local levels for people to go ahead and have conversations about local needs. They could be anything that's specific to that local area, whether it be a geographically large area like the northwest or northeast, or whether it be someplace like in the urban areas.

So there is an opportunity in here to go ahead and try to address some of those labour relations issues. Those employers who have that good labour relation right now will be able to effect the necessary changes within that opportunity. We think that's positive, we think that builds upon relationships and we think some of the employers will take that opportunity, as will we. In terms of go-forward opportunities, we think there's still good opportunity to go ahead and meet some of those local needs in this event.

Mr. Bob Delaney: Okay. Thank you very much, Chair.

Mr. Kevin O'Dwyer: Thank you very much. I appreciate the time.

The Chair (Mr. Ernie Hardeman): Very good. Thank you very much for your presentation, and thank you very much for coming in on such short notice.

CUPE ONTARIO SCHOOL BOARD COORDINATING COMMITTEE

The Chair (Mr. Ernie Hardeman): Our next presenter is the Ontario school board coordinating committee: Terri Preston. Good morning, and thank you very much for coming in. As with the previous delegation, you have 15 minutes to make your presentation. You can use any or all of that time if you so desire. If, at the end of the presentation, there is some time left, the questions will go to the official opposition. With that, the next 15 minutes are yours.

Ms. Terri Preston: Thank you very much for providing us with the opportunity to speak to you today. My name is Terri Preston. I'm chair of CUPE's Ontario school board coordinating committee, representing 50,000 support staff working for school boards. I work for the Toronto District School Board as an ESL instructor teaching newcomers English. So I work with adult learners in the system.

With me today is Chris Watson, who's the legislative liaison with CUPE Ontario.

While much of the talk about the bill has focused on teachers, it is critical to remember that, if passed, it will also apply to school secretaries, educational assistants, early childhood educators, school custodians and all other non-teaching staff who work in schools every day.

By now you have heard a number of deputations on the bill questioning its legality. I share those concerns but would like to address specifically the problem created by imposing the OECTA deal on support staff.

We entered into the provincial discussion table discussions with the government and school boards' associations in good faith. We were looking for an agreement which would show respect for support staff while being mindful of the economic climate.

Legitimate concerns we raised about the impact of the parameters on our members were met with resistance, because the government table was looking for a one-size-fits-all solution. Unfortunately, treating everyone equally often creates an inequitable result.

It is clear: The impact of a wage freeze, when heating, gas and food prices are increasing, has a greater impact on those who earn less. Support staff are the lowest-paid staff in the education system.

At all our meetings with members, we have heard time and time again from those who had experienced health challenges. The one thing that they haven't had to worry about was supporting their family.

As you know, using the low-income measure for poverty, an Ontario family of four living on \$37,000 or less was considered poor in 2008. Suggesting that someone who makes \$38,000 per year could support their family on two thirds of their income while ill is simply not realistic. You may be creating a situation where our members may be forced to apply for government assistance, such as the Ontario child benefit, in order to support their families in these circumstances. How does that help the government finances?

We have many members who do not have long-term disability insurance. When their sick leave runs out, they must apply for employment insurance. Lowering their wages prior to qualifying for employment insurance reduces their EI sick benefit—again, making it impossible to support their families without assistance. How does creating a situation whereby our members have to go to work sick make schools safer for children?

When did the issue change from unfunded liabilities to attendance management, through imposing financial penalties on the sick? Employers are quite capable of running attendance management programs and have done so for years. Why is there a need for employers to pay for a third party adjudication process? Why is there a need to reduce sick leave to 10 days? Teachers work 10 months per year. We have members who work 12 months per year. Where is the equality in setting a 10-day threshold for sick leave?

CUPE has been in tough rounds of bargaining on the issue of unfunded liabilities. We are able to reach resolutions that work between employers and our members, but not when there's no room to move. Years ago, when others bargained away the sick leave gratuity entitlement in the majority of their collective agreements, they got something for it. Bargaining has always been about give and take.

A lot of people have a hard time understanding the concept of unfunded liabilities. The best way I have heard it explained is this: When a worker owes money to a bank, it is called debt. When an employer or the government owes money to a worker, it is called an unfunded liability.

The imposition of the OEFTA deal through this legislation will ensure that 2,000 of our members will not be able to collect on the money owed to them at the time of their retirement as they did not meet the service threshold in their collective agreements as at last Friday.

Approximately 70% of our members are at the top of the wage grid. We have been told that grid movement for CUPE members would represent 0.2%, or \$5 million, over two years. Why would we be expected to pay for grid movement with three unpaid days valued at approximately 1.5%? This just doesn't make sense.

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The OEFTA memorandum with the government gives up professional development funds. Our members sought professional development funds for initiatives such as training in preventative maintenance and violence prevention programs, which would, in the end, save boards money and provide a better learning environment for students.

Our members understand very well the changes in the economy. They also understand that they were not responsible for the collapse of the economy. They go to work, raise their families and pay their taxes.

We entered into this process in good faith. We have spoken about the issues important to our members and ideas that would add value to the system. We have had very little indication from the government of interest in

our ideas or concerns. The threat of imposing their will seriously impinged on the ability for both the employers and the unions to engage in meaningful talks.

In discussions, we never received concrete information about what our share of the financial problem was in order to allow us to find alternatives to the government parameters. Instead, we were simply turned away by suggestions that the government was looking for one solution for everyone in order to meet a global target.

There has never been any magic in September 1 for our members. Our grid movement, where it exists, is more likely to take place on anniversary dates. Many of us are laid off for the months of July and August, and the employers take their vacation then. No CUPE group has taken a strike vote, and most of us still have not had an initial bargaining meeting with the employer. The deadline of December 31 is unrealistic in terms of allowing for meaningful dialogue between unions and school boards. We now are in a position where the employers have also lost faith in the process.

One size does not fit all, and clearly, if imposed on support staff through this legislation, the OEFTA deal would have a disproportionately negative effect on our members and their families. We are at a loss to understand the government's strategy. It places our members in an even more precarious position in respect to supporting their own families, while they work supporting students in the education system.

We ask you to seriously reconsider passing this legislation.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. With that, we have about five minutes left for questions, if you have any questions. To Ms. McKenna.

Mrs. Jane McKenna: Thank you so much for coming in. It was a wonderful presentation. I think sometimes when we're in the process of what actually is going on, when you sit back and actually look at where we're at, we always think that things aren't going to impact us, the broader spectrum of things. The reason that you're not getting the negotiations that you're looking for is because of the billion dollars in Ornge, the billion dollars in eHealth, the two plants that have closed and the FIT programs. What ends up happening is that the money runs out, so when you've got \$10 billion that you're covering on the debt alone, it's got to be cut somewhere. In the negotiations right now, what's happened for you is that they're vilifying one against the other because they're not in a position to listen, so you're talking to deaf ears, because it just is what it is right now, which is a very sad thing to say.

When you lose control of finances, you lose control of your destiny, and when you don't have leadership, it creates chaos. Sadly, right now, the chaos is created and we're here today in this committee listening to all of the things that you bring forward, which we're very grateful for at such short notice.

I guess my question to you is, we're grateful for you, and please know that from myself. I have five children.

My oldest is 30, but I do know, with my kids being at school, what you undertake, the work that you put out, your efforts that you put into it. We are very grateful for that, that you come out and do that every day.

I guess my one question to you is: Just here yourself, what do you think could have been done differently?

Ms. Terri Preston: I guess there are two comments I would make. The first is with respect to the situation in which we find ourselves. There have always been other options open to the government rather than cutting from the public sector. One of those options is looking at alternative revenue streams. That option, to the best of my knowledge, has not been explored fully by the government.

In terms of this process, when we entered into provincial discussion tables in previous years, there was an open dialogue where the employer and the unions were allowed to bring their concerns to the table and we were able to work through those concerns with facilitation by the government. In this process, the process was hijacked, if you want, by the position of the government, where they entered playing the employer and introducing their own parameters into the discussions. It made it impossible.

At the same time that they brought forward those parameters, the Premier was talking about bringing in legislation, if necessary. It certainly skewed the ability of the parties to sit down and have open dialogue and find creative solutions that worked for their particular groups.

Mrs. Jane McKenna: Thank you very much. But at the end of the day, when—I'm sitting on the side just listening to everything that you have to say and very respectful of that, so thank you for that.

But when there isn't anything—that's the problem, though. It's like talking to deaf ears, because there isn't any solution to fix it unless you do an across-the-board wage freeze for everybody. You just can't pick out certain people and do that. We have to fix it. There isn't any more money to spend. When you have a \$15-billion deficit, you have to change it, because in the last nine years you haven't put yourself in a position to negotiate with yourselves to make things better for yourself and for everybody else.

I hear what you're saying but I do think it does go on deaf ears, because there isn't any money and there is a huge debt and deficit. For that, we are all going to pay the cost now, and you're here, obviously, for that yourself.

Again, thank you so much for coming in, and I do appreciate what you had to say today.

Ms. Terri Preston: Thank you. If I could, what gets reported is, this is all about a wage freeze. It is far beyond a wage freeze. It's about stripping collective agreements and terms and conditions that have been negotiated over time and that people have come to rely on. So I just want to make it clear that this is not just about a wage freeze.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation.

Ms. Terri Preston: Thank you.

The Chair (Mr. Ernie Hardeman): It's much appreciated.

CANADIAN CIVIL LIBERTIES ASSOCIATION

The Chair (Mr. Ernie Hardeman): Our next presentation is the Canadian Civil Liberties Association: Andrew Lokan. Thank you very much for coming in. As you're taking your seat, we'll start off with the basic instructions. You will have 15 minutes to make your presentation. You can use any or all of that in your presentation, and if you have time left at the end of your presentation and still some left of the 15 minutes, we will have questions from the third party this time. So with that, again, thank you very much for coming in, and the floor is yours for the next 15 minutes.

Mr. Andrew Lokan: Thank you very much. I do have a written statement which I would like to file, but I can do that at the end, at the committee's convenience.

My name is Andrew Lokan and I'm here as the counsel to the Canadian Civil Liberties Association.

Members of the committee, thank you for the opportunity to make submissions on Bill 115. As you know, the Canadian Civil Liberties Association has been actively protecting the rights of Canadians since 1964. The CCLA has intervened in hundreds of court cases and has made many submissions to Legislatures, legislative committees and other government bodies on the fundamental rights set out in the Canadian Charter of Rights and Freedoms and elsewhere in the Constitution. I, myself, am a constitutional lawyer, and I am here on behalf of the CCLA because the CCLA believes that Bill 115 is undemocratic and unconstitutional.

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Everyone, including the CCLA, is aware that the economic situation of the province of Ontario is a matter of concern and that Ontarians need to make sacrifices. Everyone agrees that the government has the responsibility to attempt to stimulate the economy and may also decide to curtail its expenses. Everyone agrees that this creates challenges for the provincial government, but we question whether this must also mean undermining democratic values.

Bill 115 has extraordinary provisions. It gives power to the minister and cabinet to impose or remove terms of a negotiated collective agreement; to restrict strikes and lockouts even if no strike or lockout is threatened or even on the horizon; and to demand that workers pay back salaries and benefits they are entitled to under bona fide agreements with school boards. It also, very importantly, purports to limit legal remedies and judicial oversight—and all of this is done in the name of restraint.

The CCLA believes that Bill 115 goes too far. On its face, it violates the charter right to meaningful collective bargaining, which is protected as an aspect of freedom of association under section 2(d) of the charter. The essential terms of agreements are already dictated, and all agreements must be similar or identical with respect to

these terms, or they will be void to the extent that they deviate from those terms. This bill certainly violates the right to strike to express one's discontent, by giving the power to the minister to prohibit a strike or lockout, even if the parties are in a legal strike or lockout position. We submit also that it certainly undermines the democratic process by giving wide-ranging powers to cabinet or the minister, with little or no input from the Legislature.

We are aware that the government argues that Bill 115 is necessary, but no such necessity has been demonstrated. We question why the government believes that it is necessary to prevent the exercise of the right to strike before any strike or lockout occurs. We see no reason why it should be considered necessary to impose terms on negotiating parties even before knowing whether they are at an impasse or what outcome they would have negotiated for themselves. We believe that the government is engaging in pre-emptive law-making, denying the rights of employees "just in case." That, with respect, is not good enough in a democracy.

In general, we, as a society, demand evidence of major disturbances or ruinous disruptions prior to enacting back-to-work legislation that infringes collective bargaining rights. There is a good reason why this has been the pattern in Canada. Engaging unions and, through them, workers to negotiate terms for their labour is fundamentally democratic. It is rooted in the idea of the dignity of human beings to sell their labour on terms that they accept. Collective bargaining is a constitutional right for this reason, because it enhances the dignity of workers, and not just because it has been demonstrated to reduce the exploitation of workers. Collective bargaining is not only about the pocketbook; it is also about participating in the governance of the workplace. Respect for collective bargaining is a good investment in the capacity of people to self-government. That respect, we say, is sadly lacking in Bill 115.

This bill does not respect collective bargaining. The CCLA believes that it's highly vulnerable to constitutional challenge. We note that the government appears to share this view, and that's why the bill attempts to prevent or hinder constitutional challenges by limiting access to the courts and tribunals. But if the bill is passed, a constitutional challenge looks to be inevitable.

The government says that it's acting to support education, but this bill may be teaching students the wrong democratic messages—that is, if you're in a minority government, you should attempt to bypass the Legislature by giving cabinet, rather than the Legislature, the right to intervene. If you are worried about negotiated settlements, you should grab power by legislating in advance, instead of letting people exercise their rights and only intervening if this creates a real and demonstrable problem. If you are worried about overstepping the law, you should refuse to submit to the jurisdiction of the courts.

The government has called this bill the Putting Students First Act, but a more honest title would be "Putting democracy last." The bill should not be passed.

Thank you. Those are my prepared comments, and I believe I would have a few minutes left for questions, if any members of the committee do have questions.

The Chair (Mr. Ernie Hardeman): Thank you very much. The questions are from the third party. Mr. Tabuns.

Mr. Peter Tabuns: Mr. Lokan, thank you very much—very elegantly put. The government—the Minister of Education—has consistently argued that this bill is fully constitutional; that because there was what she refers to as a process of negotiations, this is fundamentally different from the situation that prevailed in British Columbia, a situation which the government lost on a challenge by unions because it behaved in a way that was unconstitutional.

Do you see any credibility in the minister's argument that this bill is constitutional?

Mr. Andrew Lokan: Let me make two comments, and I'm speaking here as a constitutional lawyer. The better interpretation of the right to collective bargaining is not that it's a stop-start right where, if you negotiate for a while, that's enough, and then you're entitled to suspend collective bargaining by legislating a wage freeze or dictating terms and conditions of a collective agreement.

The freedom of association, the right to a meaningful process, is ongoing. It's no answer to say, "Well, we negotiated for a while." This also steps in and imposes limits on third parties. It's a negotiation between unions and school boards, and the government has come in and said, "Never mind wherever you were in your negotiations; never mind if they would or would not have borne fruit; never mind whatever results you could have come to; we're going to impose terms on you." So, there are very strong grounds to argue it is unconstitutional.

The other is a comment I refer to in my prepared statement. If the government is so sure that this is constitutional, why is the bill riddled with provisions saying you can't challenge it before a tribunal, you can't challenge it before courts, you can't get damages etc. Why are they purporting to limit access to the courts? If the government was confident that it was constitutional, it wouldn't have any such provisions.

Mr. Peter Tabuns: Well, I agree with you. If you're putting up all these defences against anyone being able to argue the constitutionality, it says to me that there's an inherent weakness in your position. But the other point that I'd like you to expand on a bit: Negotiations, in this case, were between the government of Ontario, which is not the employer, and employee groups in rooms where employers were present, but frankly, the negotiations that we come to expect between employer and employee weren't taking place.

Could you expand a bit upon the fact that even if there were negotiations, even if they were bad negotiations, even if they were good negotiations, they weren't negotiations between the employer and the employee?

Mr. Andrew Lokan: The fundamental problem that I see as a constitutional lawyer is that negotiations between

parties other than the government, the unions and the school boards were not permitted to run their course. We don't know what results for those unions that didn't reach collective agreements would have been reached.

Unions frequently are called upon to negotiate in a climate of difficult economic circumstances. It happens in the private sector all the time. Unions sometimes have to engage even in concession bargaining. Unions are not strangers to the idea that sometimes money is in short supply. You can still respect the process of collective bargaining and you can still, with respect, take a wait-and-see attitude. If agreements are reached that are impossible from the point of public finance, maybe there's an after-the-fact case that you could justify under section 1 of the charter, but that wasn't what happened here. Here, the government has stepped in in advance and said, "We don't care what deals you might have reached on your own devices. We're imposing the terms on you in advance." That, I say, is fundamentally undemocratic and likely unconstitutional.

Mr. Peter Tabuns: And likewise, the fact that this legislation bars access to the courts, the Human Rights Commission, the Labour Relations Act for the assertion of employee rights: Is that legal, or is that anti-constitutional?

Mr. Andrew Lokan: That's troubling, and we'll find out because, as I say, constitutional challenges I think are inevitable, but there are very strong statements from the courts that you cannot prevent a review in the courts on constitutional grounds. So even if you pass the statute saying you can't go to court with your charter challenge, the court would look at that and say, "That doesn't cut it in a democracy. You can go to court." There's some scope for Legislatures to govern which court you go to in what form of proceeding, but you can't cut off access to the courts entirely. So, to the extent that the bill purports to do that, again, it's against Canada's strong democratic traditions and, I think, unlikely to survive challenge in the courts.

Mr. Peter Tabuns: And are there any other analogies that you could draw for us between the legal contest between the government of British Columbia and its employees and this situation, because clearly the Supreme Court of Canada found that in British Columbia, the government's actions violated the Constitution, the act was void, and the government had to pay substantial damages. Do you see more analogies between what's happening here and what did happen there?

Mr. Andrew Lokan: My reading of the health services case, which is the BC case that you're referring to, and related litigation, is that the Supreme Court of Canada found essentially two problems. One was that the legislation was introduced precipitously before, without much consultation, but the second was that it actually interfered with essential terms of the collective agreement.

So the government here might say there has been more of a negotiation process and there was more of a consultation process before the bill was introduced. That

may or may not solve the first problem, but it doesn't touch the second problem, that of substantial and substantive interference with essential terms of the collective agreement. So, to my mind, this bill would be unconstitutional for the reasons given by the Supreme Court in the health services case.

Mr. Peter Tabuns: In the health services case, the government of British Columbia ended up paying out tens of millions of dollars in damages. We're talking about a much larger workforce here. Is there the potential for the government of Ontario to be stuck with damage costs in the hundreds of millions for a much larger workforce?

Mr. Andrew Lokan: I'm not going to chart out the course of future litigation. The issue of what remedies you can get and when, when a charter breach is found, is a complex and technical area, but it certainly is not a possibility that can be ruled out.

The Chair (Mr. Ernie Hardeman): Thank you very much. That concludes the time allotted, so thank you very much for coming in and making the presentation, particularly on such short notice.

Mr. Andrew Lokan: Thank you.

The Chair (Mr. Ernie Hardeman): That concludes the presentations, and I'd like to remind the committee members that, pursuant to the order of the House dated Wednesday, September 5, 2012, the amendments to Bill 115 must be received by the clerk of the committee no later than 12 noon today.

Ms. Lisa MacLeod: What? That's short notice.

The Chair (Mr. Ernie Hardeman): That's what the order says. I'm here at what they call the pleasure of the House. The House has said that this is the way it's going to be, so it is. So all the amendments must be in by noon with the clerk.

Mr. Peter Tabuns: When will the amendments be available to us?

Interjection.

The Chair (Mr. Ernie Hardeman): Go ahead. The clerk can deal with that.

The Clerk of the Committee (Mr. Katch Koch): As soon as I have an opportunity to look over them and number them in the order that the committee will proceed in—

Ms. Lisa MacLeod: I can make mine available to everyone in the House. So I will bring them—can you print them all off for me? I will give one to the critic and to the PA in the House.

Mr. Peter Tabuns: And we resume roughly at 2 p.m., Mr. Chair?

Mr. Ernie Hardeman: Yes. We now stand recessed till 2 p.m., to deal with the clause-by-clause of the bill.

The committee recessed from 1013 to 1355.

The Chair (Mr. Ernie Hardeman): We'll call the meeting of the social policy committee to order. As per the motion from the House, we are to go into the clause-by-clause discussion of Bill 115.

With that, as we start out, are there any comments, questions or amendments to any section of the bill, and if

so, to which section? With that, this gives the opportunity for anybody who wants to speak generally about the bill rather than do that after it's completed. You could have that opportunity to do that now, according to standing order 80, so you can discuss the bill in its entirety without actually speaking to individual amendments.

Mr. Peter Tabuns: I would appreciate the opportunity to speak now, if I may, Mr. Chair.

The Chair (Mr. Ernie Hardeman): Yes, sir.

Mr. Peter Tabuns: Mr. Chair, you've had the opportunity to sit in the chamber along with other members of the Legislature and you've heard the approach of the NDP on this bill. There's no one in this room and I don't think there's anyone in Ontario who doesn't realize that the province is facing financial difficulties and that the government of the province, within the larger society, is facing financial difficulties. We, however, find the approach that is taken with this bill to address those difficulties profoundly problematic.

First of all, we think and we will argue at different points as we go through this bill that there are substantial matters related to the Constitution that this bill undermines, and there is a twofold impact from that reality. The first is that we're a country, we're a society that has built over decades on the idea of freedoms that all of us hold fundamental—association, speech—and rising from that, the ability for people to negotiate freely and come to agreements. When you violate those freedoms, you go against the grain of this society and this country.

Where people are able to negotiate and come to an agreement, whether we like it or not, whether we think it was a good deal or not, I think we have to respect that parties negotiated, came to an agreement and are prepared to live with the consequences of that. Where the power to negotiate, the power to make agreements is taken away, where a government assumes the authority to dictate what those conditions are going to be, it violates what I think are the values of the majority of Canadians and the overwhelming majority of people who live in Ontario. This bill violates those values. We will be and have been opposing this bill very thoroughly.

I also point out to you, Mr. Chair, that the Canadian Civil Liberties Association spoke to this matter today as to whether or not this bill would stand up in a charter challenge. I have asked the Minister of Education to provide the legal opinion upon which she decided we could proceed without charter challenge, that this was safe and secure. The lawyer from the Canadian Civil Liberties Association earlier today said that the bill as written was vulnerable to charter challenge and was a risk to this province. The minister has never provided the legal opinions upon which she made her decisions. So I say to you, Chair, that we in this province are going to be in a situation where the government is gambling that it will be able to withstand a charter challenge, that we will not be stuck with a bill in the hundreds of millions of dollars, a bill that we and our children will have to pay at a later point.

The failure to respect the charter, the failure to respect the values of Ontario can be extraordinarily expensive to the way a society functions and, frankly, to the dollars available to the government of Ontario and the people of Ontario. I think that is the core problem that you have here with this bill.

1400

Speaker, others—sorry: Chair. The habit is so deep. Chair, the other part of all this is that we see this bill as coming out of political opportunism. There is no reason to suppose that negotiations could not have continued between employers and employees. Everyone was well aware of the difficulties that Ontario is facing. Everyone was well aware of the constraints that the government of Ontario and school boards were facing. And I think everyone was ready to sit down and see where they could find a creative solution to the challenges before us.

This bill pre-empts all of that, given that in many cases school boards and their employees haven't even had a chance to sit down because typically negotiations take place around the beginning of the school year. That's entirely normal in Ontario, not something that's strange, new, unique, but in fact simply follows the rhythm of this society; it follows the rhythm of that particular sector of our community.

To say that that rhythm isn't normal, that we are in an urgent situation requiring legislation that I can only say is draconian, is absurd and is a diversion from what is really going on in this province.

I know that it will be others who will read these words rather than the legislators in this room who will vote, because everyone has made a decision about where they're going and where they're not going. But I want to say to those who will come back later and examine this: The government and the opposition were fully aware of the logical arguments against this bill, proceeded nonetheless, took substantial risks with our constitutional rights and with our budget and put the children of Ontario in our schools in a situation of heightened tension, and demoralization of education workers and teachers, when that was not required.

Chair, that's irresponsible. I'm going to urge today, although I have doubts as to my success, that members of this committee defeat this bill. My hope is that if we don't at least defeat it, that we set the grounds for it being rolled back in the next few years.

Those are my opening remarks, Mr. Chair.

The Chair (Mr. Ernie Hardeman): Thank you very much. Any further comments? Yes, Ms. MacLeod?

Ms. Lisa MacLeod: Thanks very much, Chair. It's a real pleasure to be here this afternoon.

I too just want to say that, though we have indicated in our party that we would support this legislation and though we did support, in a very rare instance, the time allocation motion, given much of the information we received from the Premier himself that there was a sense of urgency, that kids may not be in classrooms, that there would be strikes this week etc., we felt it was necessary to move forward.

I will express my personal disappointment regarding the Premier, his panicky tone and the fact that I did take my own daughter to school on Tuesday and things were running there quite as normal, thankfully, due to the professionalism of the teachers in her school, but, also, that has been happening province-wide. I think it really does speak to timing and reasons and motives, so I do have some concerns that I put, I think adequately, on the record in the House on the timing of this legislation.

In addition, it has been very clear to all involved that we have rationally and logically and methodically researched our plan over the past year and a half with respect to a broader public sector wage freeze that we have been calling for. This is not new. In fact, Tim Hudak went to visit Dalton McGuinty last November and requested that his fiscal plans moving forward include a broader public sector wage freeze for the province to save us \$2 billion annually and to ensure that we could get the province's fiscal footing back on track.

I don't have to tell you, Chair: You were at the budget when it was unveiled by the finance minister who indicated at the time that the third-largest spending priority of this government is servicing the debt and the deficit. We have got to get control of that deficit before it gets control of us, and I take that quote from Bill Clinton, who used it last night at the Democratic National Convention in the United States, but he was very right.

We had to come up with a plan. Tim Hudak met with the Premier in November indicating our position on a broader public sector wage freeze, and we feel very firmly that this does meet the constitutional demands. In fact, our deputy leader, as you are well aware—Christine Elliott—is a lawyer who has studied this approach, has reported to caucus, has spoken eloquently in the House through question period and other opportunities to speak and to inform people that this was constitutional.

The meeting in November was just the beginning. We have asked in the Legislature almost daily in question period for a broader public sector wage freeze. In fact, we took it one step further: My colleague Jeffrey Yurek, the new member from Elgin—Middlesex—London, put forward a piece of legislation last May that would have implemented a broader public sector wage freeze. At the time, both the third party and the Liberals voted against that. We felt at the time, as we do now, that it is the most appropriate way forward.

It brings in the me to this legislation and the reason we will support it. It's because it is a partial wage freeze. It's not, I think, the full distance. As my colleague and my leader, Tim Hudak, has said, it's half a loaf and we're going to continue to push for more. These are our concerns.

We view the ability to move up the pay grid as a pay raise during a time of austerity and a time of fiscal restraint. We do have some concerns with the numbers. I don't think the minister has adequately informed me of any of their offsets, so it does appear that they have a \$300-million hole in their fiscal plan. Their offsets only account for about \$150 million, while the increases on

the grid will account for about \$450 million. So we do have some concerns there.

In addition, we feel that there is a usurping of responsibility by school boards and managers in the school board system, as well as principals, from their traditional role of hiring and diagnostic assessments. I'll be putting forward an amendment to that effect, and I'm hopeful that my colleagues will keep an open mind with respect to that.

We'll be moving forward with this, even though we have those concerns over the fiscal hole and the gap that is left there, even though this is really only a partial wage freeze, even though we are highly suspect of the timing and even as it strips management rights in the school board system, because we simply cannot afford a 5.5% increase in wages retroactive to September 1.

Chair, we are in very difficult financial times. As I mentioned, the third-largest spending priority right after health care and education in Ontario is our debt and our deficit. That means that every single dollar we spend on servicing the debt and the deficit is one dollar less for children in classrooms. That will be quite significant. The cost of borrowing will go up. Interest rates will go up, and that will increase the cost of servicing that debt and the deficit. The long-term viability and sustainability of a strong public education system rests on fiscal responsibility now.

This isn't exactly what we want, but it is part of the way there. It's not an easy decision, Chair, as I know you well know. It's not easy to tell people that you need to freeze their wages, but Ontario is in a very difficult financial situation right now. No one really wants to do this, but we have to do it, and that concerns me.

I will say this: that we only view this as a part measure, as I said, in terms of a wage freeze, not only because of the grid and the issue with the hole in their fiscal plan, but also because this is only one small sector of the broader public service.

1410

There are 3,999 other collective bargaining agreements that are due for expiration, and if I could say one thing to the government, this is probably not the approach to take. It would have been more fair, more equitable, more comprehensive to put forward sound legislation so that there would be a firm and fair legislative process by which we could actually take more time to look at legislation, its consequences and its implications.

Now, if we're going to be dealing with 3,000 or 4,000 more collective bargaining agreements, the question needs to be asked—and I do hope it is answered: Are we going to expect legislation each and every single time, or can they just do this with one piece of legislation to bring everyone in line, understanding the necessity of getting our fiscal house in order and in order to secure and protect those public services that we value?

I can't underscore enough, Chair, the catastrophic effects of uncontrollable spending and uncontrollable debt and deficit financing. We can't continue to let that

occur, and I do trust my colleagues understand our position. I know the public has heard it for quite some time. I simply wanted to reiterate it.

I will be putting forward some amendments, and I wanted to also just close by saying it's been a pleasure to work in this committee with yourself as Chair, with the very capable staff of the Legislative Assembly under the leadership of Katch Koch, as well as with my colleagues from all parties.

It's never easy when we have a heated debate, and sometimes we bring passion—and I a bit more than others from time to time—but the one thing I do know is that we all come firmly entrenched with our views. We respect that. We may not necessarily accept each other's position, but we certainly do respect where they come from, and I thank them for defending their values and their rights and the people they represent.

The Chair (Mr. Ernie Hardeman): Thank you very much.

Anything further? Mr. Delaney.

Mr. Bob Delaney: Thank you, Chair. I definitely would like to thank and acknowledge the comments of my colleagues Ms. MacLeod and Mr. Tabuns. I think both of them have said things with which all of us on the government side and everyone involved in this process could certainly agree.

Mr. Tabuns very eloquently encapsulated some of the issues with a group of men and women whose work is strategic to our province, that of educators and administrators in the school system. Four years ago and eight years ago, these negotiations were all wrapped up by now, and this year they are not. Ms. MacLeod brought out, again very eloquently and very concisely, some of the reasons why not.

While our neighbours to the south continue to struggle in their own economy, it also means that by far, as a province, our largest customer isn't buying at levels that they historically have.

The question, then, before all of us in government is: What is it that we do about it? There are many measures that we can take on a macro level, and one of them is to look at the single largest component of our budget, which is salaries and benefits, and ask ourselves, without laying off people wholesale—a choice that many of our counterparts in the United States have had to make. We would like to find a way of continuing to fairly compensate teachers that we feel are the best teachers—we know are the best teachers—in the English-speaking world because the students they produce are the best students in the English-speaking world.

The question is not, "Can we give everybody what they want?" but "Can we come to a conclusion that's fair, that's reasonable, that's affordable, that's sustainable?" In July, the government reached an agreement with OECTA, the Ontario English Catholic Teachers' Association, and that agreement represents a road map that balances the need for the province to reach its fiscal targets while protecting public investments and full-day kindergarten, smaller class sizes and the classroom experience.

The agreement is reflected in this act that we're debating here, which is the Putting Students First Act. It's a fair and balanced approach that's going to benefit Ontario's youngest teachers and help preserve 20,000 teaching and support staff jobs. Teachers at more than half of Ontario's boards have now signed agreements with the province. We just need the rest of the teacher federations and the boards to do their part.

Thank you, Chair.

The Chair (Mr. Ernie Hardeman): Yes, Ms. DiNovo.

Ms. Cheri DiNovo: I'd like to speak as well, if I could, Mr. Chair. Just a few remarks: First of all, to build on what my colleague from Toronto—Danforth, our education critic, has had to say—and I have to say he's done a superlative job at carrying our end of this discussion—the only party, I have to say, that has vehemently opposed this bill from the beginning, and has spoken, I think, with passion, conviction and morality about this issue. It really does break down, I would say, into three different areas: the constitutionality; the legality of this bill, which we would warrant is neither constitutional nor, in many ways, legal. As I heard my colleague from Nepean—Carleton speaking, I think of the words of one of our deputants who came here and said that even the legal panel on 640 AM discussed this bill as unconstitutional, never mind a constitutional lawyer from Civil Liberties, but I'll go into that in some more depth in a moment.

The other critical issue before us is really not before us right now, is running around pulling votes in Kitchener—Waterloo, because the elephant in the room, so to speak—it made me think of the fact that elephants are protected in this province, but that's another discussion for another day—is that this is about two by-elections that are ongoing. The true reason for Bill 115 is not about education; it's not about putting students first. Neither is it, I would warrant from the constitutional lawyer, about putting democracy last; it's about putting Dalton McGuinty first and the Liberal Party first, particularly in two by-elections.

Why are they doing this? They've taken a page out of the Conservative handbook, really, and I think of Snobelen. They've created a crisis, a crisis which did not exist and to which they then put forward this Pyrrhic solution.

Finally, a constant theme around this table has been about the deficit. "Oh, this was generated because of what we owe in this province." Suffice it to say that we're not only talking here about teachers—and that was eloquently put by a number of those who came to testify; we're also talking about educational workers, many of whom make about \$38,000 a year. Well, I can tell you, Mr. Chair, that the caretaker at Queen Victoria in my riding who doesn't make \$100,000 a year, not even close, and who works extremely hard, is not responsible for this province's deficit. He is not responsible for the fiasco at Ornge; he is not responsible, nor is his family, for the eHealth \$1-billion boondoggle. He is also not responsible for the cancelled energy plants, which cost hundreds of

millions of dollars. He is not responsible for any of the above; neither is the elementary teacher at Fern Public and neither is the high school teacher at Parkdale high school. None of these folks had anything to do with any of that.

In fact, neither did they have anything to do with the fact that we have one of the lowest corporate tax rates in North America. None of the above and none of their representatives who came to testify here have anything to do with that.

In response to the member from Mississauga—Streetsville: I came back from a conference in the United States where a retired governor of Pennsylvania—he said, “I can speak the truth, finally. I’m retired”—said, “Here’s what we need in the United States. We need a single-payer health care plan”—of course, they don’t have that—“we need more money into infrastructure and education and we need to roll back \$1.6 trillion of corporate and wealth tax cuts since the Reagan era, \$800 billion alone during the Bush era. And we will get none of the above.” That’s what he said. Well, it seems as if the Liberal government, under Dalton McGuinty, and of course their Conservative friends across the aisle—both of whom, by the way, are bankrolled by some of the same folk—are on the same track as our friends to the south—yes, and they are on the same track; they said as much; Mr. Delaney said as much: that you’ve got to pay somewhere for the tax cuts you give to the wealthy, to the corporations.

1420

And so, it seems, we come to this point, where those tax cuts are going to be paid for by ordinary working families, people like the caretaker at Queen Victoria, like the elementary teacher at Fern and like the high school teacher at Parkdale. The bill has come and it’s going to be paid for by them.

Well, one can very easily see why they’re upset. This has nothing to do with students; I think we can all agree on that. This has absolutely nothing to do with them. In fact, what this bill is proposing is to take, depending on estimates, between \$1.2 billion and \$2 billion out of the educational system, period.

Ultimately, when you take that much money out of a system—which is something that our neighbours to the south have been doing for a long time—then it’s going to affect the users of that system, and the users of the system are families and their children. It will affect our children; that’s who it’s going to affect.

To get back to the constitutional challenge, which I think is seminal here, certainly, when you have a constitutional lawyer come before you and say, pretty dramatically, that absolutely this will be taken to the courts and absolutely there’s a reason it will be, and there’s a very good chance that those who take this government to court will win and the damages will be borne by, guess what, the people of this province—again, not all the people of this province equally, but certainly the people of this province—the question has to be asked: If you’re going to save a small amount of money over here

but then end up paying hundreds of millions, potentially, over here, where’s the saving for the deficit? The answer to that conundrum is, of course, that it may not be this government that has to face paying that bill. That bill will happen a year or two down the pipe, at the very least, when the damages are settled.

It’s certainly not going to affect—again, issue and theme number two—the by-elections in Kitchener—Waterloo or Vaughan. Long after Kitchener—Waterloo and Vaughan are distant memories, the bill from this government’s folly will come home to roost, and it will come home to roost, perhaps, not even for their own government—perhaps for the government that takes over from them. Again, it’s not their issue; it’s not their problem.

This is cynicism, might I say, Mr. Chair, of unprecedented measure. Imagine running in a foolhardy manner down that road, knowing that it may cost tens, if not hundreds, of millions of dollars at the end to save a few pennies here—but at least that bill won’t be paid by your party. Is this what we’ve come to in the province of Ontario?

Constitutionality: One of our concerns over here in the New Democratic Party with this bill was the fact—and as the lawyer who gave a very, very eloquent presentation—his name, just to be clear, is Andrew Lokan. He’s a counsel for Civil Liberties. He very, very articulately said that one of the red flags—and the government knew this was going to be challenged in the courts and challenged on charter and constitutional grounds—is that they built into the bill all of these little caveats about taking it to tribunals, taking it to court. He said very straightforwardly that the legality of those elements in this bill is very questionable.

I can say, certainly, coming from a business background and a background in the church, and having dealt with lawyers and legalities many, many times around issues like this: Any time you try to put into place in a bill or any other document that you expect anyone to sign on to caveats about them being able to challenge the legality of that document, you’re going to lose on that basis. We know this. We know you cannot restrict people’s freedom to be able to challenge any legal document they sign. You can’t do that. That’s going to be challenged, and you’re going to lose on that basis.

Behind this, of course—again, it begs the question: Why is this government so interested in taking away the basic freedoms of its citizens? But then I thought, Mr. Chair—I’ve been around a long time—“Hey, it’s part of the métier of the Liberal Party.” I mean, let’s look back. We had the G20. We had that secret little clause that this party and this government used to curtail freedoms of the citizens in that regard. Or, to go back even further—yes?

The Chair (Mr. Ernie Hardeman): I would advise the member to stick to the bill.

Ms. Cheri DiNovo: I’ll be coming back. There’s a point. I’m taking the scenic route that Mr. Trudeau took when the War Measures Act was passed, the un-

precedented route of taking away all Canadian civil liberties.

The Chair (Mr. Ernie Hardeman): That may very well tell us we're past the bill.

Ms. Cheri DiNovo: Okay, and I'm coming back to it—so, to get back to Bill 115, and to get back to some of those who have come before us and very eloquently testified as to, first of all, the legality and the constitutionality of this bill; the reason, or the true reasons, perhaps, for this bill—that's conjecture, I warrant—and its inadequacy in actually dealing with what the stated aim is by the government, and that is to deal with the deficit.

I think we've had folk very eloquently say before us—certainly, eloquently enough—that not only will this bill be challenged—we've had assurances to that effect—but that it very well might be challenged successfully. If it is challenged successfully, based on our experience in British Columbia—and that has been discussed at length—one will see very, very readily that there, with a lot fewer employees, the province was stuck with a bill of tens of millions of dollars. Here, that bill could only be greater. Again, the stated aim—to save money—is clearly not the real aim if this is going to be the result of this bill.

It's not that we're being cynical. It's not that we're not assuming the government has the best interests at heart. We just think they're misguided in this area, because you don't save pennies here by committing to spending thousands of dollars down the road.

Then what is the real reason for this bill? Did collective bargaining let them down? First of all, I think it's very important to say as well that one of the points the lawyer made for the civil liberties organization was that not only is this unconstitutional, but this is giving this cabinet and this education minister unprecedented power; that that alone is anti-democratic; that what that does is take away the power of the Legislature, particularly in a minority government, where the opposition benches have decided—by not by much, but they do have—a greater vote than the government side, and takes away that legislative power and vests it in the cabinet itself and in one minister in particular; that that alone would be unconstitutional, independent of the threat to collective bargaining, independent of the threat to the freedoms that we all hold dear.

Those are just, at the outset, Mr. Chair, to give you a feel of where we will be going in terms of my comments about the various presenters, which I look forward to getting into. Thank you.

The Chair (Mr. Ernie Hardeman): We can carry on with this, but we can speak to the sections as we are dealing with them too.

Ms. Cheri DiNovo: Absolutely.

The Chair (Mr. Ernie Hardeman): That way, we can more direct the comments directly to the bill as to the overall. We do appreciate the presentations on the overall.

We have a further comment. Mr. Tabuns?

Mr. Peter Tabuns: Yes, I do. Thank you, Mr. Chair. I'm responding to my colleagues Ms. MacLeod and Mr. Delaney.

This bill is presumed to be part of a solution to a larger problem. We're talking now about whether this bill is a good idea or not. My colleague from Parkdale-High Park has set out some very sound, eloquent reasons for disputing the given reasons for proceeding with this bill, and good arguments about the profound problems in the very fabric of the bill.

But I want to address Mr. Delaney first. In his comments, he said, "We can't give everyone everything that they want." And I have to say, Chair: No one has ever suggested that everyone would be given everything that they want. We don't suggest it. I don't think that education workers and teachers have suggested that they would get everything they want.

1430

What has been asked for is a fair process to come to a negotiated agreement. That's being denied here. Mr. Delaney argued, and Ms. MacLeod similarly argued, that we have to avoid what we see in the United States and that taking the measures set out in this bill will allow us to do that.

The shutting down of fire departments, the cutting of policing, the cutting of education in jurisdictions around the United States don't reflect the state of wealth in the United States; they reflect the state of distribution of wealth. And if we are talking about California, an extraordinarily wealthy jurisdiction that has substantially cut back on its public services, it wasn't because it overpaid its teachers or its civil servants. Its problem has been, historically, that it has had an anti-tax element that has been very powerful. It has been able to—

The Chair (Mr. Ernie Hardeman): Again, I don't want to disrupt the debate, but I do suggest that we speak about the issue before us, not the affairs of the world—if we could do that.

Mr. Peter Tabuns: Well, Mr. Hardeman—Chair—this bill is being put forward as a solution to large problems, and I want to say to you, yes, there are large problems, but this bill is irrelevant to solution of those problems. The reduction of funding to education, which this bill represents and which was represented when we saw the provincial budget, is going to undermine the long-term prosperity of Ontario. Everyone in this room will agree that investing in public education is critical to our future and our prosperity. Democrats have been hammering that home in their convention, and I think the Republicans made some pretty strong statements along the same line. When you in fact proceed down a road that means that you demoralize and undermine the fabric of the schools, then you undermine our prosperity. This bill will be doing that.

If you say, "We've got a problem; we need to solve it this way," it is entirely legitimate for me and my colleague from Parkdale-High Park to say, "Well, if this isn't the solution, what is?" If salaries for the people who clean up the broken needles in our playgrounds are not

the problem, what is the problem? What are the solutions?

I think it's very fair for us to say, Chair, that growing inequality of incomes, growing socking-away of cash in corporate bank accounts—dead money, as Mark Carney referred to it—is a far more profound problem than paying teachers a fair wage, paying early childhood educators a fair wage, paying custodians and office staff a fair wage. Beyond that, treating them with respect and being willing to negotiate with them—that's not the source of the problems we're facing, and thus, this bill will not solve the problem.

This bill will create risk of substantial liability for the people and province of Ontario, and the bill, at heart then, is a mistake. That has to be understood as we go through—because we can debate all the little bits, and Chair, we will be, but if you don't understand that you're going in the wrong direction to start with, you don't understand why this bill is flawed.

Chair, I just find it very unfortunate that we've arrived at this point today with this bill. I find it disappointing and depressing. I know that we will go on to go through the bill in some detail, but I have to make it very clear for myself and for my party that we see this as a completely wrong direction to go in. Thank you, Chair.

The Chair (Mr. Ernie Hardeman): Thank you. Any further—if not, we will start the debate on the individual sections. I think the committee has all been presented with the amendments that have been duly presented to the clerk by 12 o'clock today, and they have been distributed to become part of the debate. With the consent of the committee, we will go through section by section and vote on each section as we're going through and then do the amendments as we get to them and then vote on the whole bill. We'll start off with section 1.

Mr. Peter Tabuns: I have a question, Mr. Chair.

The Chair (Mr. Ernie Hardeman): Yes?

Mr. Peter Tabuns: If we're on section 1, I'd like to ask the government, and if not the government, then legislative counsel: Section 1, subsection 8: "Nothing in this act shall be interpreted in a way that interferes with or controls,

"(a) the denominational aspects of a Roman Catholic board;

"(b) the denominational aspects of a Protestant separate school board; or

"(c) the linguistic or cultural aspects of a French-language district school board."

I have no interest in interfering with those things. Why is this in this bill? Why does it need to be in this bill?

The Chair (Mr. Ernie Hardeman): Is the government—

Mr. Bob Delaney: Chair, I'm not aware that there is an amendment proposed in this. If Mr. Tabuns wishes to discuss or vote against a section or a clause, it's his privilege.

Mr. Peter Tabuns: I gather that the government is not going to answer my question. If I could ask legislative counsel: What is the reasoning for this section here?

Ms. Catherine Oh: I can't answer that. That's a policy matter. The rationale behind the provision should be answered by the party who proposed it.

Mr. Peter Tabuns: I don't oppose having this in this section, but I want to say to you, Chair, that having this in here says to me that there are changes in this bill that force the government to protect itself legally by making sure it has some armour plating here. It makes me wonder if there is infringement on these areas which others might challenge legally, and the government is acting pre-emptively because, in the course of presentations over the last two days—a very short course of presentations—we had francophone school boards concerned about their actual control, their autonomy. What I see the government doing here is trying to pre-empt any legal action against itself for overreaching in terms of its ability to actually run these school boards.

Mr. Bob Delaney: Chair?

The Chair (Mr. Ernie Hardeman): Yes?

Mr. Bob Delaney: Are these comments germane to those sections now under consideration?

Mr. Peter Tabuns: Yes.

The Chair (Mr. Ernie Hardeman): Yes, comments are—

Mr. Bob Delaney: Could you please advise me what section of the bill is now under consideration?

The Chair (Mr. Ernie Hardeman): Section 1.

Mr. Bob Delaney: Okay.

Ms. Cheri DiNovo: Subsection 1(8).

The Chair (Mr. Ernie Hardeman): Any further debate on section 1?

Mr. Peter Tabuns: Is there no answer from the government on this? Are you saying that your bill does not overreach, that it does not pose any problem for, the autonomy of French-language schools or for any religious board?

Mr. Bob Delaney: You are free to put that question through the ministry and I'm sure the ministry will respond to the question, but I don't believe there is an amendment proposed on this section.

The Chair (Mr. Ernie Hardeman): Ms. DiNovo?

Ms. Cheri DiNovo: With all due respect, Mr. Chair, my colleague has asked a reasonable question. The government side is sitting there to presumably give us some sort of answer or to find the answer. We're quite happy to give them time to find the answer, but to say we could ask the ministry or the policy staff—they are here representing that ministry and representing that government and this is their bill. It's a very reasonable question. Why is that section in here? What is it trying to protect or not? What is the answer? If not, as I say, we're happy to give them some time to find out.

The Chair (Mr. Ernie Hardeman): I think, as I said, all members of the committee have a right to ask questions for explanation from the members here present, such as the parliamentary assistant. I think that in doing that we also have to accept that we don't get to judge the quality of the answer, as they don't get to judge the quality of the question. We do have to accept that that's what

this is about. The reason for the section is not—the question is the interpretation of the section that we’re dealing with.

So with that, any further comments on the section?

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Mr. Peter Tabuns: No, I don’t have further comment—no, actually I do. One of the points that was made yesterday by the Canadian Civil Liberties Association, which was interesting to me, was the insertion in the bill of numerous statements that the constitutionality of the bill could not be challenged. To them, it read as an admission that there were weaknesses and vulnerabilities, and the government was trying to armour-plate itself by putting in those sections.

I think, in fact, there may be overreach in these areas, and the government is trying to armour-plate itself in order to ensure that it isn’t vulnerable to challenges because, in fact, it has written this law badly. I do find it quite interesting the government actually isn’t in a position to defend its own bill.

The Chair (Mr. Ernie Hardeman): Any further discussion on the section? If not, all those in favour of section 1? Opposed? The section is carried.

Shall section 1 carry? Carried. Section 1 carries.

Section 2: Shall section 2 carry? Any questions or comments on section 2? Seeing none, all those in favour of section 2? Section 2 is carried.

Section 3: Shall section 3 carry? Any discussion on section 3? If not, all those in favour? Opposed? Carried.

Section 4: We have amendments presented on section 4. The first one is a PC amendment. Ms. MacLeod.

Ms. Lisa MacLeod: I move that subsection 4(1) of the bill be struck out and the following substituted:

“Board’s mandate re inclusion of terms

“4(1) When engaging in collective bargaining for a collective agreement that would apply during the restraint period, each board has a mandate to negotiate for collective agreements that include the following terms and are not inconsistent with those terms:

“1. The compensation or rate of pay that an employee is entitled to during the restraint period shall not be greater than the compensation or rate of pay he or she was receiving as of the day before the beginning of the restraint period for the employee.

“2. If a person is hired during the restraint period, his or her compensation or rate of pay shall not be greater than that provided as of August 31, 2012, to an employee with similar qualifications in the same or a similar position with the same employer.

“3. If an employee changes position or changes status between full-time and part-time during the restraint period but remains employed by the board, his or her new compensation or rate of pay shall ... be greater than that provided as of August 31, 2012”—

The Chair (Mr. Ernie Hardeman): Excuse me. You left a “not” out.

Ms. Lisa MacLeod: —“shall not be greater than that provided as of August 31, 2012, to an employee with

similar qualifications in the same or a similar position with the same employer.

“4. The compensation or rate of pay to which an employee is entitled under paragraph 1, 2 or 3, as the case may be, shall not be increased for any reason during the restraint period.

“5. Such days of service credits as have been accumulated by an employee as of August 31, 2012, may be counted as standing to the employee’s credit, but no service credits may be accumulated after that day.

“6. Upon the retirement of the employee, such service credits as have been accumulated shall be paid out at the lesser of,

“i. the rate of pay specified in the collective agreement as the rate for payment of service credits, and

“ii. the employee’s rate of pay as of August 31, 2012.

“7. Such days of sick leave credits as have been accumulated by an employee as of August 31, 2012, under a system of sick leave credit gratuities established under section 180 of the Education Act may be counted as standing to the employee’s credit, but no sick leave credits may be accumulated after that day except as may be allowed under the regulations made under section 180.1 of the Education Act.

“8. Upon the retirement of the employee, such sick leave credits as have been accumulated shall be paid out at the rate of the employee’s pay as of August 31, 2012.

“9. An employee shall be eligible for 10 days of sick leave during a board’s fiscal year paid at a rate of pay equal to 100 per cent of the employee’s salary for the year.

“10. An employee shall be eligible for an additional 120 days of sick leave during a board’s fiscal year paid at a rate of pay equal to,

“i. 90 per cent of the employee’s salary as of August 31, 2012, if the employee’s entitlement to that rate has been determined through an adjudicative process agreed to by the employee and the board, or

“ii. 66.67 per cent of the employee’s salary for the year, for all other employees.

“11. Any other prescribed terms.”

The purpose of this motion is to ensure that the collective agreements must meet the provisions of this legislation and not necessarily the provisions of the MOUs. Further, this motion ensures that the school boards and the principals are able to hire the best teacher possible. This motion also ensures that any local school board that has not signed a collective agreement or has not signed an MOU is not bound by a policy that will hinder student assessment.

This motion has been requested by the four school board associations and the principals’ councils.

The Chair (Mr. Ernie Hardeman): You’ve heard the amendment. Discussion?

Mr. Peter Tabuns: I appreciate Ms. MacLeod’s explanation of the amendment. Do I understand correctly that, with your amendment, grid increases that were negotiated between the province and AEFO and OECTA would be eliminated?

Ms. Lisa MacLeod: This motion is in response to the school boards that had come in and are concerned with that.

Mr. Peter Tabuns: But can you tell me if this would eliminate grid increases?

Ms. Lisa MacLeod: This is effectively a motion that they have requested as a result, to remove the name of one union over the other unions.

Mr. Peter Tabuns: I'm sorry. Would you repeat that?

Ms. Lisa MacLeod: It removes the term "OECTA."

Mr. Peter Tabuns: What's the advantage to Ontario and the education system of this?

Ms. Lisa MacLeod: The advantage, as put forward by the school boards that were here, was in order to have a long-standing piece of legislation that didn't refer to one union or one MOU over another.

Mr. Peter Tabuns: Okay. I want to speak to this briefly, Chair, and I think my colleague may want to speak to this as well.

As you, Chair, are well aware, and as I think I made abundantly clear in my opening remarks, I disagree with this bill. But I don't understand why in fact we would go after new teachers, people who come out of university, who will be taking night school, who will be going back in the summer for upgrading as a way of moving up the grid, why we would—if I understand this amendment correctly—be trying to ensure that their hard work and their contribution to the schools was not recognized.

I understand why anyone would oppose the bill, but why one would oppose grid increases for younger teachers doesn't make sense to me. If I understand what's here, if I understand it correctly, if I take the example of AEFO, where the vast majority of their members are new or relatively new and are still moving up the grid, they would be carrying a particularly heavy load. Many new teachers start at pay in the range of \$40,000 or \$42,000 a year for many years of university, for a task that is psychologically demanding, emotionally and physically demanding, one that we consider pretty central. Why we would not recognize the system of movement to recognize learning on the job, to recognize one's maturation in that work, is puzzling to me. I understand why the school boards may not like it, but I don't see the advantage to Ontario, and I don't see the fairness to the people that we depend on to educate our children.

Can I just ask legislative counsel: Am I correct in assuming that this eliminates grid increases?

Ms. Catherine Oh: Well, I would point out paragraph 1. If you read that, "The compensation or rate of pay that an employee is entitled during the restraint period shall not be greater than the compensation or rate of pay he or she was receiving as of the day before the beginning of the restraint period...."

1450

Mr. Peter Tabuns: Okay. So I've read that correctly. There are not any other sections or elements in this amendment that in fact ameliorate that. It's flat.

Ms. Catherine Oh: There's no specific reference to the grid, but that provision addresses compensation and rate of pay.

The Chair (Mr. Ernie Hardeman): Further discussion?

Ms. Cheri DiNovo: I certainly agree with my colleague and have the same concerns about this amendment. I also think it's unfortunate—and to my colleagues Ms. McKenna and Ms. MacLeod, to my right—there have been a number of myths that have been propagated around this bill. One of them is that—and I would actually warrant that this is an example why this was—

Ms. Tracy MacCharles: Point of order, Chair.

The Chair (Mr. Ernie Hardeman): Yes?

Ms. Tracy MacCharles: Are we talking about the amendment, just to be clear?

Ms. Cheri DiNovo: We are. Absolutely, we are, because the amendment is dealing with increases—salary increases.

The Chair (Mr. Ernie Hardeman): Carry on.

Ms. Cheri DiNovo: One of the myths that has been put out there in the public sphere is that teachers' unions and educational workers' unions have asked for unaffordable increases. I think we heard from the testimony from many folk here, not to mention historical fact, that that was not the case. It seems to me that this amendment builds on that myth.

As I said, I wanted to table this as an example of how that myth gets worked out in—remember, I come back to the themes that we set forth at the beginning, that really what we're talking about here is the Kitchener–Waterloo by-election and the Vaughan by-election, and not the educational system at all.

That's the myth that's been put out. Sadly, it seems to me that this amendment buys into the fact that teachers' unions and educational workers' unions were asking for unaffordable increases. Over and over again, they have said that was not the case. So I wanted to point that out.

I also want to say that behind this again is the greater issue, and this amendment again speaks to a very ideologically substantial difference between ourselves, the New Democratic Party, and what we stand for, and what the Liberal Party and the Conservative Party stand for. That is, quite frankly, to put it succinctly, the middle class. We live in a province right now—and this is the backdrop to this amendment and this bill and the ideology that went into this amendment—where we are 10th out of 10 in terms of inequity; where our poor are getting poorer, and unprecedentedly so; where our wealthy are getting wealthier; and where the middle class is emptying out.

Quite frankly, the middle class, by and large, has been brought to us by organized labour. The idea of a good job, at a good hourly rate for work that you do, has been the result of collective bargaining over the years, and that's the result of our middle class. That's the class that fuels the economy.

I think when my colleague was speaking earlier about how we see the big economic picture, and how we see

healing the problems with it—which no doubt demand healing—how we attack the deficit, in fact—this is not the way to go. This is, as it were, kind of the tip of the iceberg of a very great difference. I think that difference is worth discussing where this bill is concerned.

This bill is, as I said, about three things. Number 1, we believe it's about—and not we alone; Civil Liberties and other constitutional lawyers—attacking civil liberties, attacking basic freedoms that we enjoy. Number 2, it's about by-elections in Kitchener–Waterloo and Vaughan. That's the political reality. Number 3, it's about attacking a deficit. Here we have our Conservative colleagues trying to attack a deficit, trying to push even further what is already a bill that's going to take some money away from educational workers, so even more money is taken away from educational workers.

I think it's extremely important that we get all the issues out, that we talk about the real issues that this amendment speaks to. There's reasoning and ideology behind this amendment, as there is behind this bill.

I think it's important that people understand what we're dealing with here; that we're dealing with two very, very different views of Ontario: a Liberal and Conservative view on one side, and a New Democratic Party view on the other side. The twain are very different. This pushes the Liberal/Conservative view even further to the right, even further to an anti-union perspective, anti-collective bargaining, anti-freedom, anti-constitutionality, and builds on the myth that was propagated by the government—which I'm sad to see my colleagues in the Conservative Party falling prey to—that the teachers, in fact, were asking for an increase in the first place. Those would be my concerns.

The Chair (Mr. Ernie Hardeman): Mr. Delaney.

Mr. Bob Delaney: Chair, I just have a very short remark. The proposal, such as it is, would override legislation that's based on more than 300 hours of bargaining with the Ontario English Catholic Teachers' Association. The province has worked very hard with our partners on that deal, which is a fair and balanced approach, and it's reflected in this legislation. The government recommends defeating this amendment, which would alter our negotiated agreement with some 55,000 teachers.

The Chair (Mr. Ernie Hardeman): Further discussion?

Mr. Peter Tabuns: You're about to call the vote, Mr. Chair?

The Chair (Mr. Ernie Hardeman): Yes.

Mr. Peter Tabuns: I just want to let you know that I'm going to ask for a 20-minute recess before you call that vote.

Mr. Bob Delaney: Do you need the full 20 or part of it?

Mr. Peter Tabuns: I just want the recess. I need to consult with my House leader.

The Chair (Mr. Ernie Hardeman): Any further debate?

Ms. Lisa MacLeod: All right. Do we have a 20-minute recess?

The Chair (Mr. Ernie Hardeman): Yes. The committee stands recessed for 20 minutes.

The committee recessed from 1456 to 1516.

The Chair (Mr. Ernie Hardeman): The committee will come back to order. We have a motion on the PC amendment, number 1 of your schedule, for a vote. All those in favour? Opposed? The motion is lost.

We have another motion that is before us, a PC amendment—

Ms. Lisa MacLeod: Withdrawn.

The Chair (Mr. Ernie Hardeman): Withdrawn.

We have a third motion in section 4.

Ms. Lisa MacLeod: I move that section 4 of the bill be amended by adding the following subsections:

“Certain terms not creating inconsistency

“(7) For the purposes of this act, a collective agreement is inconsistent with the terms described in subsection (1) only because,

“(a) the collective agreement does not contain terms described in subsection (8); or

“(b) the collective agreement includes terms that change, nullify or limit the operation of terms described in subsection (8).

“Same

“(8) The terms referred to in subsection (7) are terms applicable under subsection (1) respecting,

“(a) criteria and processes to be used in the hiring of teachers by boards and any other matter related to the hiring of teachers; or

“(b) the use of diagnostic assessments of students.”

The Chair (Mr. Ernie Hardeman): Thank you. You've heard the motion. Discussion?

Ms. Lisa MacLeod: Put the question.

The Chair (Mr. Ernie Hardeman): Discussion? You have a question?

Mr. Peter Tabuns: Yes, I have a question—not the other term that someone bandied about.

Mr. Bob Delaney: We're talking about the capital-Q question.

Mr. Peter Tabuns: Yes. I am curious, Mr. Delaney. For legislative counsel, given that the other amendment to section 4 about the forms of agreement was not passed, is this in order?

Ms. Catherine Oh: Is this in order? Is that the question?

Mr. Peter Tabuns: Yes.

Ms. Catherine Oh: I don't see any reason why it's not in order.

Mr. Peter Tabuns: It is in order?

Ms. Catherine Oh: It's not for me to decide, but they're not in conflict with each other.

Interjection.

The Chair (Mr. Ernie Hardeman): The clerk tells me that it's not in conflict because the other motion that it would be in conflict with was defeated.

Mr. Peter Tabuns: Ah. Okay.

Interjection.

The Chair (Mr. Ernie Hardeman): Maybe you could explain it to the member.

Mr. Peter Tabuns: I would be happy to have the clerk step in at this point and explain it to me.

The Clerk of the Committee (Mr. Katch Koch): Because motion number 1, subsection 4(1) was defeated, it does not render this out of order. They're not related to one another directly.

Mr. Peter Tabuns: So this is not dependent on the earlier amendment having been passed. It's consistent with the text as written.

Could Ms. MacLeod speak to her logic in putting forward this amendment?

Ms. Lisa MacLeod: Yes. Contrary to what your colleague had indicated with the previous motion, I'm not sure that the school boards that appeared before here or that have written to all three political party leaders and education critics are right-wing fanatics. But the purpose of this motion is to ensure that any local school board that has not signed a collective agreement or has not signed on to the MOU will not be contrary to the act if their collective agreement does not include the above-noted terms.

1520

Further, this motion ensures that the school boards and principals are able to hire the best teacher possible. This motion also ensures that any local school board that has not signed a collective agreement or has not signed on to the MOU is bound by a policy that will hinder student assessment.

The motion has been requested, as was the previous amendment, by the four school board associations and the principals' councils of Ontario—you may be aware of them.

Mr. Peter Tabuns: I am. I am, indeed.

The Chair (Mr. Ernie Hardeman): Further questions?

Ms. Cheri DiNovo: Just a point of order, really, Mr. Chair: At no time did I call school boards "right-wing fanatics." I just want to make that very clear, for the record.

In fact, by way of an olive branch, I wanted to say to my friend Ms. MacLeod over here—and just to correct the record—when she was reading this amendment in, she said—and I tried to correct it as she was going, but without success—"a collective agreement," she said into the record, "is inconsistent," instead of "is not inconsistent," which is what the amendment says. You can check Hansard on that and you'll see that I'm correct—just to make sure that her amendment gets read into the record correctly.

The Chair (Mr. Ernie Hardeman): Okay. Any further comments? If not, we'll put the question. All those in favour? Opposed? The motion is lost.

Shall section 4 carry? All those in favour? Opposed? The motion is carried.

Shall section 5 carry?

Mr. Peter Tabuns: Question.

Mr. Bob Delaney: Carried.

Mr. Peter Tabuns: I have a question.

The Chair (Mr. Ernie Hardeman): Questions and comments on section 5?

Mr. Peter Tabuns: I appreciate Mr. Delaney's enthusiasm; in fact, his pre-emptive approach too.

The Chair (Mr. Ernie Hardeman): I apologize for having said the wrong word. Discussion on section 5?

Mr. Peter Tabuns: Thank you, Mr. Chair. First of all, this applies to employees who aren't in a collective agreement, who are just now—sorry—people who are outside the collective agreement process, people who have just recently been organized? Who is this? I would take word from the government or from legislative counsel. Who are we talking about here?

The Chair (Mr. Ernie Hardeman): There's a question about who section 5 pertains to.

Mr. Bob Delaney: I think the language in the clause pretty much speaks for itself, Chair.

Mr. Peter Tabuns: What's odd, Chair, is restrictions when no collective agreement is in operation. I'm assuming that everyone is covered by a collective agreement. Are we saying that this applies when the collective—I don't know what body of people within the education system this is addressing.

We know that the teachers and support workers are covered by collective agreements. The principals have a form of agreement, apparently. Does this apply to the directors of education? Does this apply to the superintendents? Does this apply to all the staff outside the collective agreement frameworks that exist today?

Mr. Bob Delaney: I might suggest that Mr. Tabuns refer to a document that I believe he has, which is the memorandum of understanding between the Ministry of Education and the Ontario English Catholic Teachers' Association. It's a 17-page document that, I believe, if I understand the question correctly, you'll find the answer pretty specific in there.

Mr. Peter Tabuns: Happily, I do have that memorandum. Could you tell me where in the memorandum this is spoken to?

Mr. Bob Delaney: Would you make that question a little bit clearer, please?

Mr. Peter Tabuns: Yes. In the tab that reads "OECTA MOU" in the binder we were given—Putting Students First Act, 2012, Standing Committee on Social Policy—I can see the headline about a deal. Then I look at the document and I don't see a reference to the group of employees that are outside the collective bargaining framework. I see long-term disability. I see occasional teachers. I see benefits. Who are you referring to? Whose employment conditions do you want to be regulating with this section 5?

Mr. Bob Delaney: I would say in response to the member that the MOU of course applies to the bargaining unit with which it is undertaken, that being the Ontario English Catholic Teachers' Association, and the bill proposes extending this to the sector. That's kind of obvious, I hope.

Mr. Peter Tabuns: Obvious to one is not obvious to another. I understand that you are trying to put in place a

framework that covers everyone who has a collective agreement with a school board in Ontario. I know many of the players who are represented in the room today are going to be shaped by that framework. They all have collective agreements with school boards. We have here restrictions when there's no collective agreement in operation. Are you in fact addressing senior management in the school boards? Are you addressing the directors, the superintendents, the assistant directors etc.? Who are we talking about here?

Mr. Bob Delaney: I don't believe that many of the people you've just mentioned are covered by collective agreements.

Mr. Peter Tabuns: No collective agreements in operation?

Mr. Bob Delaney: Just a minute.

Mr. Peter Tabuns: There may be light about to be cast on this matter.

Mr. Bob Delaney: That's an interesting technical question. I am advised that those board personnel who are not covered under this proposed bill are in fact covered under the compensation restraint act, so that there are no loopholes.

Ms. Lisa MacLeod: Can we put the question, Chair?

The Chair (Mr. Ernie Hardeman): Hmm?

Ms. Lisa MacLeod: Can we put the question, please?

Mr. Peter Tabuns: Well, I'm in the midst of asking a question. What level of staff are we dealing with? What's their relationship to the boards and to the province?

Mr. Bob Delaney: If it's not covered by one, it's covered by the other. If you're not covered by these provisions as proposed in the act pursuant to the memorandum of understanding negotiated with the Ontario English Catholic Teachers' Association, then you will be covered under the compensation restraint act.

Mr. Peter Tabuns: So this deals with everyone who is outside the current collective agreement framework and covered by the restraint act?

Mr. Bob Delaney: Your interpretation, I think, is incomplete in that the legislation before us deals with those that are subject to collective bargaining. However, anyone who is not subject to a collective agreement is covered by the compensation restraint act. Okay?

Mr. Peter Tabuns: Does that mean that those who are covered by the compensation restraint act are also going to have three unpaid days made part of their lives?

Mr. Bob Delaney: A question on what is or is not covered by an act that is not before this committee is, I think, a little outside our terms of reference—even if I knew the answer, which I don't.

The Chair (Mr. Ernie Hardeman): Okay? Further debate?

Mr. Peter Tabuns: Fair enough.

1530

The Chair (Mr. Ernie Hardeman): Further debate? If not, I'll put the question. Shall section 5 carry? All those in favour? Opposed? The motion is carried.

Section 6: Any questions or comments on section 6?

Mr. Peter Tabuns: Yes, I do. You're saying that a collective agreement settled between the board and an employee bargaining agent that applies during the restraint period shall provide for a term of two years. Later on, you give yourselves the power to extend that. Further, you're saying that the Education Act, which allows a collective agreement to have a four-year term, is not applicable. Why? Why won't you let people bargain for a longer period of time and have a longer contract?

Mr. Bob Delaney: I can't speak for what discussion did or did not happen at the table. I can say that the act before us proposes a two-year period.

Mr. Peter Tabuns: No, I understand that, but the Education Act allows people to negotiate for a four-year period, should they desire.

Mr. Bob Delaney: That is, again, outside the scope of what we're doing here.

The Chair (Mr. Ernie Hardeman): I think, to be fair, the question was answered. The question is, what does the law say that we're going to vote on, and it says that it shall be no more than two years. As to why, that's a policy decision that he cannot necessarily answer.

Mr. Peter Tabuns: Fair enough. If he can't necessarily answer, then I have a comment.

The Chair (Mr. Ernie Hardeman): Thank you. Any other comments? If not, the question—

Mr. Peter Tabuns: No, I will have a comment before you go to the question.

The Chair (Mr. Ernie Hardeman): Further? Mr. Tabuns.

Mr. Peter Tabuns: I find it interesting that the Education Act is being set aside here. I can't really, myself, see why someone would want, on the face of it, to have a four-year agreement, but it may be that a board somewhere in Ontario and an employee group, a teachers' group or education worker group, decides that the best outcome for them is one that allows for a four-year agreement and gives the board greater predictability as to its income for years to come. It's a flexibility that the staff have given up, hopefully in the attainment of something that is worthwhile to them.

I don't see why the government has decided to reach in like this. It's already reaching in in a variety of areas. It's taking away income from teachers and education workers. It's dictating the terms of agreements between education workers, teachers and boards, and frankly, you would think that would be enough. But to go even further and knock off the negotiating table the ability to set up a longer agreement when that may be advantageous to everyone at the table makes no sense to me. I don't quite understand why that has been done, and it doesn't look as though the government is either prepared to give us that information or has the knowledge to give us that information. But it strikes me as just another example of how the government, with this legislation, is over-reaching, trying to impose regulation and control in areas where, in fact, local conditions may dictate some advantage to all concerned to be able to negotiate and agree on a longer period for a contract. Again, as with the heart of

this bill, which is contrary to the needs of Ontario, contrary to local control, I think this is a section that should be defeated.

The Chair (Mr. Ernie Hardeman): Thank you. Further debate? If not, shall section 6 carry? Hearing no dissension, carried.

Section 7: Any questions or comments on section 7? Mr. Tabuns.

Mr. Peter Tabuns: Yes. We have a system of arbitration set up in Ontario that is supposed to be an alternative to strikes and lockouts, and what we have here is a dramatic restriction of the ability of arbitrators to weigh the needs and interests of the public and those who are employed by the public to educate their children. I'd like the government to explain why it's setting aside arbitration.

I hear so often about the need for stability. I went through the debate on the TTC as an essential service and all the arguments made about the function of arbitration to allow people to sit down with an objective decision-maker and evaluator. Now, effectively, all that an arbitrator gets to do is take in contracts, stamp them "Approved by the Minister of Education" and move them on. Why has arbitration been set aside by the government in this instance?

Mr. Bob Delaney: Chair, the member did have the opportunity of a full briefing by the ministry, and if there was something in it he wished to amend, he could have submitted an amendment. As there is no amendment submitted, I respectfully request that we put the question.

Mr. Peter Tabuns: And I oppose putting the question, Mr. Chair.

The Chair (Mr. Ernie Hardeman): I would point out, to expedite the system, that the ability of the committee is limited to dealing with the sections and voting for or against them—

Mr. Peter Tabuns: I know that.

The Chair (Mr. Ernie Hardeman): —or amending them with amendments that were before the committee at noon today. So if there's a section, the committee gets their opportunity to speak for or against and then vote for or against, but it doesn't deal with changing it in any substantive way other than just a yes or a no for the amendment or for the sections.

Ms. Cheri DiNovo: Mr. Chair, just a question: I believe my colleague is asking for a question of clarification, and I would want to know too on this section if this is outside the scope of the legality of the bill. This goes back to what we were talking about in terms of constitutionality. This section, it seems to us, is one of those problematic areas.

Legislative counsel, can they do this, I guess? Is this ultra vires? Can they do this?

Ms. Lisa MacLeod: Chair, just if I may, as a point of clarification in order for us to move this along, as you would like, we were first informed of this legislation—as I said, there's not everything I am 100% on, but there is a move toward a wage freeze, which is something our leader has been pushing for. But just in terms of pro-

cess—and I want to be very clear—the minister's office did allow for a briefing on this legislation with the official opposition staff. I had the opportunity, on numerous occasions, to submit letters and speak directly on the phone with the minister regarding my concerns, and that led us to a point where I actually put amendments forward for the bill today. That's very clear.

Now, here is my point: We had an opportunity well before today to ask for legal advice and clarification from the government. As I said, I wasn't always happy with the responses I received, nor do I think I'm getting everything I want. That said, I did have an opportunity, and I took advantage of that opportunity. I think we're here today to go clause-by-clause, and the time for research on the bill would have passed when we were going through second reading and up to that point. I think by the time we're here at clause-by-clause, we should be prepared to be voting on any amendments, yea or nay, but the time to have asked on the legal repercussions and any other concerns certainly was already available to us. I think we would be best to just put the question right now on this section.

The Chair (Mr. Ernie Hardeman): It's not a point of order, and I do want to assure everyone that clause-by-clause is to review the whole bill, and people can speak to the sections as they deem appropriate.

I would caution, speaking to the section, that it is not about changing the section, and it's not appropriate to have someone explain the thought behind doing it. The debate is about what the section does or doesn't do, and then the members of the committee get to decide, at the end of what I would hope was a short debate—at that point, they get to decide whether they are for or against the section. There's not an opportunity to change it, so there's not a lot of need, in my mind, to discuss the merits of a change, other than you are for or against that section of the bill.

1540

Incidentally—and I just want to finish with that—that's why most of the time, when you do a clause-by-clause, the sections that do not have amendments have no merit to a long debate, because again, it's a yes or no vote. It doesn't matter how long the debate is; the end result will not change the ability to do that.

Yes, Ms. DiNovo?

Ms. Cheri DiNovo: Just as a point of clarification, Chair, I just wanted to say that I, and many of us here, were not part of those briefings—and this is no disrespect to Gabbie and Howie and others in the minister's office who do a phenomenal job, and I just want to give them a shout-out. But the reason that we have this forum in committee—and like in everything legislative and parliamentary, there are checks and balances, and one of the checks is that, yes, the critics were there, but not all of us were there. So really, I'm not asking to have the section change; all I was asking for was clarification of the legality of the section. That's all. Clearly, as you've pointed out and as Ms. MacLeod pointed out, the time for that

has passed. But the time for questioning, I hope, never does in parliamentary procedure. That's my point.

The Chair (Mr. Ernie Hardeman): With that, we will proceed. Mr. Tabuns.

Mr. Peter Tabuns: Chair, as you are well aware, this whole process has been truncated. Unlike many other bills, we have not had a full period of debate and consultation, as was remarked by Annie Kidder—last night, I guess; time goes by quickly. Four hours of public consultation on a bill that really is of substantial consequence to the province of Ontario is inadequate, and so we come here and, in part in asking questions, I'm calling the government to account for what exactly it's done and to set out in some detail publicly—not just in a private briefing—what is their thinking, what are the implications and consequences of each section. You're right: When we debate each section, if there's not an amendment, it's yes or no. Sections may be deleted in the process of clause-by-clause.

When I ask a question and I ask the government to defend its legislation, explain its legislation, I think that it's an entirely defensible public position to take, and I think that people who came here over the last few days to talk about the bill, its consequences for them and the children of this province, expect us to hold the government to account. It's our job.

When I see that arbitration is being dramatically weakened, made a rubber stamp—a significant part of labour relations in Ontario—I think it's reasonable for me to ask, "So what's your reasoning? What's your explanation?" You won't allow full public hearings. You've time-allocated debate. You've cut back on third reading. Clause-by-clause is really the opportunity for us to get into this bill in some detail, and myself and my colleague from Parkdale-High Park have been trying to do that.

This section, "Collective agreement to include terms," also makes sure that no one can receive compensation to make up for what they lost through the application of this act. So when this legislation is done—actually, I'll read it: "A board shall not provide compensation to an employee, before, during or after the restraint period, for compensation that he or she will not, does not, or did not receive as a result of this act." That binds that board for as long as this legislation is in place. That's extraordinary.

It's one thing to say that during a period of restraint you can't have any increase, but even when the period of restraint is over, the restraint is in effect? That's something that people of Ontario need to understand, that effectively an attempt is being made to put in place permanent restraint so that people can't catch up. Don Drummond, who was cited yesterday—and, I think, was cited earlier today in this debate—talked about the catch-up that happens when you apply wage restraint. To think that you can get around it with this legislation, I think, would be shocking to a lot of Ontarians—simple as that. I urge people, I urge the government, to vote against this section.

The Chair (Mr. Ernie Hardeman): Thank you. Mr. Delaney, you had a comment.

Mr. Bob Delaney: Just that 20 days have elapsed since the members' briefing and that the government took the very unusual step of publishing the text of the bill days before it was even introduced just so that nobody would be surprised. In fact, part of the reason that the ministry staff that Ms. DiNovo said such nice things about—justifiably nice things about. Part of the reason that they're in such great physical shape is the degree to which they have learned to bend over backwards to answer all of these questions.

The Chair (Mr. Ernie Hardeman): Thank you.

Ms. Cheri DiNovo: I just wanted to add to what my colleague had said as well. Just so people who are watching these proceedings are aware, we had less than four hours to table our amendments after the last deputant came and testified here—less than four hours. Again, going back to the necessity to ask questions about these things, that's not a lot of time for research to sit down to think about what they've heard, if they really did hear it, and to incorporate it into the act itself and to then come forward with amendments.

That's why my colleague and I are asking questions, and that's why we're trying to get some further definition on here. Again, it's been, as Peter said, very truncated. I want to make that point.

Mr. Peter Tabuns: Can I just give you a point of information, as well, Mr. Chair? At the technical briefing, one is not allowed to ask for motivation or purpose of sections of the bill. We can't ask for the rationale. The government is making very big steps. It's putting in place a system where people will be deprived of income and, if this bill holds for any length of time, will be deprived of income ad infinitum.

I think it's reasonable to ask: What's your thinking here? What's your rationale? This is a political forum; it's not a technical forum. It's a forum in which parties have to defend and oppose ideas. This is a hugely problematic section—the whole section. The government should be defending its legislation so the people of Ontario understand their reasoning and can come to their own conclusions about its validity or invalidity.

The Chair (Mr. Ernie Hardeman): Further comments? If not, shall section 7 carry? Section 7 carries.

Discussion on section 8?

Mr. Peter Tabuns: Chair, 8(1)1 reads, "If, on the day before this subsection comes into force, the collective agreement is in operation, the collective agreement is inoperative as of the day this subsection comes into force and it shall not come back into operation except in accordance with this section."

Chair, it may be one thing to say that future agreements have to be this way or that way. But this isn't just about future agreements; it's saying that existing agreements are deemed null and void and the government will rewrite them as it sees fit. Why is it that the government decided that it had to give itself the power to nullify existing collective agreements?

So the government is mute on its legislation.

The Chair (Mr. Ernie Hardeman): We can ask legal counsel whether that is in fact what happens. But as far as the motivation for doing it, that's a discussion that you have to have in the public domain: asking the ministers as to why they came up with this bill. This bill is being reviewed as it was presented by people other than those in the room.

Mr. Peter Tabuns: Well, then I will ask legislative counsel. Do I understand correctly? This nullifies existing collective agreements?

Ms. Catherine Oh: I wouldn't say that it nullifies it. It says that if the collective agreement is in operation, it stops being in operation as of the day the subsection comes into force.

1550

Mr. Peter Tabuns: So if an agreement was negotiated last year for a two-year period, as of the day this bill comes into existence, into force, that's set aside. The terms can be rewritten—

Ms. Catherine Oh: It would be suspended.

Mr. Peter Tabuns: It could be suspended. Do you come across this kind of legislation on a regular basis?

Ms. Catherine Oh: I'm sorry, I can't answer that.

The Chair (Mr. Ernie Hardeman): Okay?

Mr. Peter Tabuns: I have to say, Chair, that this is representative of the kinds of draconian steps that this government is engaged in with this legislation. I don't think they're right to change future agreements, I don't think they're right to prescribe how agreements will be negotiated over the next few months, and I can't see any good defence for saying that an agreement that is in existence today is simply suspended, to use the correct term.

I believe that over time, as people become familiar with the impact of this bill, it will have, obviously, a huge impact on the Liberal Party, but I think it will affect the way people think about government and whether or not government operates in a balanced, just, fair way or acts arbitrarily. When you're in a situation where you're suspending contracts like this in pursuit of the political objectives that Ms. DiNovo and I have set out in other forums, I think it brings disrepute on the law. I believe that the government has made a mistake here and should be withdrawing this section.

The Chair (Mr. Ernie Hardeman): Ms. DiNovo.

Ms. Cheri DiNovo: Yes, just to go back to the comment around the technical briefing and that because of that, our question should've been answered, I think we both addressed that. But I want to say also that we have hearings for a reason, and that is those who come and take their time and testify should be heard, listened to, and perhaps their thoughts incorporated into the legislation.

I want to draw this committee's attention back to the testimony of Leslie Wolfe for the Ontario Secondary School Teachers' Federation, who talked about exactly the ramifications of this legislation beyond and above, I think, what the government initially intended to do. I

would love to hear the government's response to some of her concerns. She used some pretty dramatic language. She talked about this being the worst piece of legislation she had seen, and she had lived through the Rae government, the Harris government and many other governments. When you hear that—and I'm asking friends across the aisle here. When you hear that in light of what my colleague has put forward about this section, does this not cause you some concern? You have teachers and educational workers in your ridings, but you also have people who work with collective agreements of all kinds. Does this not cause you some concern?

I was wondering if somebody could answer.

The Chair (Mr. Ernie Hardeman): Further questions, further comments? If not, shall section 8 carry? Hearing no dissenting vote, section 8 carries.

Section 9: Questions or comments?

Mr. Peter Tabuns: The changes to the Employment Standards Act—we have here: “(6) Despite section 13 of the Employment Standards Act, 2000, a board may deduct from an employee's wages amounts that the employee is required to reimburse to the board under an order made under paragraph 4 of subsection (2).”

I find it amazing that the Employment Standards Act has to be suspended, has to be set aside, in order for this bill to go forward, to be in full effect. No other employer in Ontario gets to come before us and say, “You know, I'm doing well, but I could do a lot better if I could just get rid of that Employment Standards Act. It's really pesky.”

All of us here have talked to our constituents who have in some way or another been wronged, who have been deprived of wages, who have been put in extraordinarily difficult situations. For many, for those not unionized and not in the \$200,000-per-year-plus wage bracket, they depend on the Employment Standards Act.

I find it quite amazing that this government feels it has to set aside the Employment Standards Act to actually deliver on its public policy. It takes me back to that theme of the draconian nature of this bill.

It's one thing to say, “We've got a bill that's going to set aside negotiations; we're going to reshape the landscape within which negotiations take place; we're going to give arbitrators their marching orders.” But on top of all that, to say, “Even the people who clean up in the hallways, the people who are in the office dealing with sick children—these people are not going to have the protection of the Employment Standards Act,” strikes me as indefensible.

As people in Ontario get to know this bill better—and I assume they will, as time goes on—this will be a major piece. I have told people in my family about the fact that the Employment Standards Act is being changed or suspended—probably more correct to say “suspended”—in its operation when it comes to teachers, education workers, child care workers and custodians. I don't think there's justification for it; none. Again, I think this illustrates the fundamental problems in this bill and in the

government's approach to negotiations with people in education.

I would be very happy, although I am not very hopeful, if the government would defend its suspension protections of the Employment Standards Act for the employees whom we depend on to make our education system work.

The Chair (Mr. Ernie Hardeman): Further comments? Seeing none, shall section 9 carry? Hearing no dissension, section 9 carries.

Discussion on section 10? Shall section 10 carry? Hearing no dissension, section 10 carries.

Discussion on section 11?

Mr. Peter Tabuns: Thank you.

The Chair (Mr. Ernie Hardeman): Mr. Tabuns.

Ms. Lisa MacLeod: You're not welcome.

The Chair (Mr. Ernie Hardeman): Yes, you are. This is a democratic committee.

Mr. Peter Tabuns: I know you can't restrain yourself. There are many in that situation. I've been teased by the best.

"Minister complaint to the Ontario Labour Relations Board." I had an opportunity to raise this in the House, but it is extraordinary to see this before us.

"11. The minister may, if he or she is of the opinion that it would be in the public interest, make a complaint to the Ontario Labour Relations Board alleging a contravention of this act."

That seems reasonable. If there's a problem, the minister should be able to use the labour relations mechanisms for resolving those problems. I would say that there are very few people who would come out and say, "No, no; you shouldn't be able to make use of the laws in Ontario to actually, in a peaceful, legal, thoughtful way, move forward."

This legislation goes on to read that the Labour Relations Act—this is section 13, and they're all intertwined:

"The Labour Relations Act 1995, as modified by part X.1 of the Education Act in the case of part X.1 teachers, applies to boards, employee bargaining agents and part X.1 teachers, except to the extent of any conflict with this act or a regulation or an order made under this act."

In other words, the Labour Relations Act and the board have been made one-sided. It can be used to enforce against education workers and teachers; no problem. Send down ministry staff. Maybe some of the minister's staff sitting here with us today will be dispatched someday to the Labour Relations Board with an envelope saying, "We have problems with the bargaining unit in this location. We need you to use your full powers to enforce against them."

1600

If, on the other hand, someone who works in the school—teaches in a kindergarten, teaches in a high school—has problems, they can't go to the Labour Relations Board. It has become one-sided. I want to say to you, Chair, and people here should understand this, that when you start making the law one-sided, you bring the law into disrepute.

Here we have a mechanism, a framework, for allowing complaints from employees against management, from management towards employees. What we've said is that the "employees using it" part is now out the window. It can be used to enforce; it can be used to coerce; it can be used to direct; but it can't be used to defend. What that says then is that people will say to themselves, "The laws are not written for everyone in Ontario; not written for equal defence of everyone in Ontario. The laws are written so that those who are powerful can have their way, and those who are not powerful will simply have to endure it." It's bad legislation. It is bad legislation because it brings the whole rule of law into disrepute.

We've been going through the Employment Standards Act being set aside. It's pretty bad. Saying that the Labour Relations Board will simply become an instrument of the government when it comes to this legislation and these workers is a huge step back in a modern industrial society.

Chair, the government should not have written this legislation in this way. It should not be, in effect, corrupting the Labour Relations Board, corrupting the spirit of the law by making it one-sided. In the long run, we will all pay for that, not just those in the education system, not just our children who are in these schools, but everyone who thinks that the rule of law is a pretty good idea, people who through the Western world for centuries have tried to build a system of law that protected the great and the small. You know the whole idea that no one is above the law? Well, in this, there are people who are now below the law, very far below the law, and can't use the law to defend themselves, can't use legal mechanisms to defend themselves. This is wrong.

The Chair (Mr. Ernie Hardeman): Ms. DiNovo.

Ms. Cheri DiNovo: Yes, Mr. Chair. Just to add to that, again, as we're looking at this legislation in light of the testimony that we heard from those who came before us, I hearken back to Andrew Lokan, the constitutional lawyer who came on behalf of Canadian Civil Liberties Association. To add to what my colleague was just saying, and to put it very succinctly so that those who are watching will know how far-reaching this is, what he said, in his words was, this gives the minister—and the cabinet, but the minister in particular, one human being—a pre-emptive power to override collective bargaining, not after it's done, but before it's even begun, on issues of strikes and lockouts, on issues of salaries, on issues of recourse to judicial oversights, for example.

We've heard from my colleague, from Mr. Tabuns, that this is about the Labour Relations Board as well and gutting that power, but also the Employment Standards Act being suspended. Again, it's coming back to one person in cabinet, not to the Legislature itself, not that, where the number of votes are representative of the people that we represent in our constituencies, but to one person. I can't emphasize enough—and that's why we're taking this time, because one would hope that in other governments, in other historical times, people did take the time, or would have taken the time, to come forward

and point these things out. Perhaps we wouldn't have then had the problems we've had historically.

Again, just to buttress what my colleague has been saying, this gives one person in cabinet the power to preemptively decide the outcomes of, presumably, negotiations between employer and employee, gives one person the power to make decisions around strikes and lockouts, salaries, all of those things, prior to this report of a collective bargaining process—a substantial change.

Again, I would just like to ask my friends across the way—because I truly believe that everyone around this table believes in democracy and the rule of law. I don't think anybody doesn't; we're all on the same page on that. I would just ask them their response to the challenges that we've set forward, if anybody has an answer. I'm just looking for an answer here. Any answer.

The Chair (Mr. Ernie Hardeman): Any further debate? If not, shall section 11 carry?

Mr. Peter Tabuns: No.

The Chair (Mr. Ernie Hardeman): I hear a no.

Mr. Peter Tabuns: You do hear a no.

The Chair (Mr. Ernie Hardeman): All those in favour? Opposed? The motion's carried.

Any discussion on section 12? No discussion? Shall section 12 carry?

Mr. Peter Tabuns: No.

The Chair (Mr. Ernie Hardeman): Hearing a no, all in favour? Opposed? The motion's carried. Section 12 carries.

Section 13: government motion number 4, for an amendment.

Mr. Bob Delaney: I move that section 13 of the bill be amended by adding the following subsections:

"Rights not reduced

"(6) Nothing in this act or in a regulation or order in council made under this act shall be interpreted or applied so as to reduce a right or entitlement under the Human Rights Code.

"Same

"(7) Nothing in this act or in a regulation or order in council made under this act shall be interpreted or applied so as to reduce a right or entitlement under the Pay Equity Act."

The Chair (Mr. Ernie Hardeman): You've heard the motion. Discussion?

Mr. Bob Delaney: Chair, it's just a minor clarification point that several deputants had asked about.

The Chair (Mr. Ernie Hardeman): Any further discussion on the amendment? If not, all those in favour of the amendment? Opposed? The motion's carried.

Any further discussion on section 13, as amended? Shall section 13, as amended, carry? Hearing no dissent, section 13, as amended, carries.

Section 14: Discussion on section 14? Mr. Tabuns.

Mr. Peter Tabuns: Chair, this continues on the efforts of the government to in fact block any legal action. It reads: "14(1) The Ontario Labour Relations Board shall not inquire into or make a decision on whether a provision of this act, a regulation or an order made under

subsection 9(2) is constitutionally valid or is in conflict with the Human Rights Code."

And further: "An arbitrator or arbitration board shall not inquire into or make a decision on whether a provision of this act, a regulation or an order made under subsection 9(2) is constitutionally valid or is in conflict with the Human Rights Code."

To put those who may challenge this legislation through our legal system at a disadvantage by saying that in fact you can't use the law to protect yourself is wrong. You can't use the Human Rights Code, the arbitrators. People can't, at those levels, rule on the constitutionality of what's being done to our employees.

That's to our disadvantage as a society. It speaks to the term I used earlier, the draconian nature of this bill. It isn't just that the terrain is being set up; it is being levelled everywhere so that the ability of people to use legal mechanisms is withdrawn. And typically, Chair, as you know, when legal solutions aren't available, sometimes people get kind of cranky and they act outside the law.

Interjections.

1610

Ms. Lisa MacLeod: Are we still on section 11?

Mrs. Jane McKenna: We're on 14 now.

The Chair (Mr. Ernie Hardeman): Mr. Tabuns.

Mr. Peter Tabuns: Simply, Chair, this is one-sided. It undermines the social contract between people throughout this province. It should be defeated.

The Chair (Mr. Ernie Hardeman): Any further debate? If not, shall section 14 carry?

Mr. Peter Tabuns: No.

The Chair (Mr. Ernie Hardeman): I hear a no.

All those in favour of section 14? All those opposed? The motion is carried. Section 14 carries.

Section 15: Debate on section 15?

Mr. Peter Tabuns: I urge people to vote against it.

The Chair (Mr. Ernie Hardeman): No further debate on section 15? Shall section 15 carry? Section 15 carries.

Section 16: Any debate on section 16?

Mr. Peter Tabuns: The same problem as before: It continues to make things one-sided. I urge people to vote against.

The Chair (Mr. Ernie Hardeman): No further debate? Shall section 16 carry?

Mr. Peter Tabuns: No.

The Chair (Mr. Ernie Hardeman): We needed a no. Okay, I hear a no.

All those in favour? Opposed? The motion is carried.

Section 17: Debate on section 17? If not, shall section 17 carry?

Mr. Peter Tabuns: No. Did you not hear my no?

The Chair (Mr. Ernie Hardeman): I heard a no.

All those in favour? Opposed? The motion is carried. Section 17 carries.

Section 18: Any debate on section 18?

Mr. Peter Tabuns: I urge people to vote against.

The Chair (Mr. Ernie Hardeman): Section 18: No further debate? All those in favour?

Mr. Peter Tabuns: No.

The Chair (Mr. Ernie Hardeman): Shall section 18 carry?

Mr. Peter Tabuns: No.

The Chair (Mr. Ernie Hardeman): Hearing a no, all those in favour? Opposed? Section 18 carries.

Section 19: We have some amendments in section 19.

Mrs. Jane McKenna: Withdraw the next two.

The Chair (Mr. Ernie Hardeman): Section number 5 on the pages of amendments.

Motion number 5, PC amendment.

Mrs. Jane McKenna: Withdraw.

The Chair (Mr. Ernie Hardeman): Withdrawn? You withdrew it?

Mrs. Jane McKenna: Yes, Mr. Chair.

The Chair (Mr. Ernie Hardeman): Okay. Amendment number 5 has been withdrawn.

Amendment number 6.

Mrs. Jane McKenna: Withdraw.

The Chair (Mr. Ernie Hardeman): Withdrawn.

Section number 7, amendment number 7: Ms. McKenna.

Mrs. Jane McKenna: I move that clause 19(1)(e) of the bill be struck out and the following substituted:

“(e) prescribing terms and conditions that may be imposed in an employment contract or a collective agreement, other than terms and conditions respecting,

“(i) criteria and processes to be used in the hiring of teachers by boards and any other matters related to the hiring of teachers, and

“(ii) the use of diagnostic assessments of students;”

The Chair (Mr. Ernie Hardeman): You’ve heard the motion. Discussion? Mr. Delaney.

Mr. Bob Delaney: While it is a nuanced change, we’ll recommend voting against it.

The Chair (Mr. Ernie Hardeman): Any further discussion? If not, all those in favour of the motion? Opposed? The motion is defeated. That was number 7.

Motion number 8.

Mrs. Jane McKenna: Withdraw.

The Chair (Mr. Ernie Hardeman): Withdrawn. Motion number 9.

Mrs. Jane McKenna: Withdrawn.

The Chair (Mr. Ernie Hardeman): Withdrawn. That’s all the amendments.

With that, shall section 19 carry? I heard a no. All those in favour of section 19? All those opposed? The motion is carried. Section 19 carries.

Ms. Lisa MacLeod: Chair, given that that was a tie and you cast the deciding vote, maybe you could just reiterate that. I would like it pointed out that the Ontario PC caucus did not support section 19.

The Chair (Mr. Ernie Hardeman): Okay; so included. It goes back to my old municipal days: When the mayor has to cast a deciding vote, calling the vote that way cast the vote automatically. I apologize; I voted with the side that carried the section.

Ms. Lisa MacLeod: But it was a good old college try.

The Chair (Mr. Ernie Hardeman): Section 20: Discussion on section 20? No discussion on section 20? If not, shall section 20 carry? I heard a no. All those in favour? Opposed? The motion is carried. Section 20 carries.

Section 21: Any discussion on section 21? If not, shall section 21 carry? I hear a no. All those in favour? All those opposed? The motion carries.

Shall section—that was 21.

Mr. Peter Tabuns: That was 21.

The Chair (Mr. Ernie Hardeman): Section 22: Any discussion on 22?

Mr. Peter Tabuns: I’m just going to vote against.

The Chair (Mr. Ernie Hardeman): If no discussion, shall section 22 carry? We hear a no. All those in favour? Opposed? The motion’s carried.

Section 23: Discussion on section 23? No discussion. If there’s no discussion, shall section 23 carry? I heard a no.

All those in favour? Opposed? The motion’s carried.

Preamble: Any discussions on the preamble?

Mr. Peter Tabuns: Just voting no.

The Chair (Mr. Ernie Hardeman): Shall the preamble carry? I heard a no. All those in favour? All those opposed? The preamble carries.

Shall the title of the bill carry?

Mr. Peter Tabuns: No.

Ms. Cheri DiNovo: That’s particularly bad.

The Chair (Mr. Ernie Hardeman): I heard a no. All those in favour? All those opposed? The title of the bill will carry.

Ms. Lisa MacLeod: But just barely—

Interjections.

The Chair (Mr. Ernie Hardeman): I say it with tongue in cheek. I couldn’t think of anything else to call it, so I thought I’d better vote for the title that’s there.

Shall Bill 115, as amended, carry?

Mr. Peter Tabuns: No, and a recorded vote.

The Chair (Mr. Ernie Hardeman): We heard a recorded vote.

Ayes

Damerla, Delaney, MacCharles, Mangat.

Nays

DiNovo, Tabuns.

The Chair (Mr. Ernie Hardeman): Bill 115 carries. It wasn’t a tie vote I was breaking.

Mr. Peter Tabuns: No, I noticed it wasn’t a tie vote.

Ms. Cheri DiNovo: You’re doing a wonderful job, Mr. Chair.

The Chair (Mr. Ernie Hardeman): Shall I report the bill, as amended, to the House? I heard a no. All those in favour? Opposed? The motion is carried. That does complete the clause-by-clause of Bill 115.

I do want to just take a moment and thank the committee for your indulgence. You've done what they call—out in the country, they call that a “yeoman's job” you did today. Obviously it's very difficult, in situations like this, to keep the conversation relevant.

I just wanted to say to Mr. Tabuns and Ms. DiNovo that the only one way the Chair could stifle the debate was saying you were becoming repetitious. I want to say,

Mr. Tabuns, you stopped just in time for that not to happen.

Thank you all again for your indulgence and your support during this. We shall forward the bill to the House. Incidentally, they were going to deem it there anyway.

Thank you again.

The committee adjourned at 1621.

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